

INDIAN GAMING REGULATORY ACT

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

ON

OVERSIGHT HEARING ON THE IMPLEMENTATION OF THE INDIAN
GAMING REGULATORY ACT

JULY 25, 2001
WASHINGTON, DC



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U.S. GOVERNMENT PRINTING OFFICE

74-522 PDF

WASHINGTON : 2002

For sale by the Superintendent of Documents, U.S. Government Printing Office
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INDIAN GAMING REGULATORY ACT

WEDNESDAY, JULY 25, 2001

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 10:29 a.m. in room 216, Hart Senate Office Building, Hon. Daniel K. Inouye (chairman of the committee) presiding.

Present: Senators Inouye, Campbell, McCain, Johnson, and Conrad.

STATEMENT OF HON. DANIEL K. INOUE, U.S. SENATOR FROM HAWAII, CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

The CHAIRMAN. The committee meets this morning to receive testimony on the implementation of the Indian Gaming Regulatory Act. This is the first in a series of hearings that the committee has planned to explore matters relating to gaming. Our next hearing will focus on how other forms of gaming are regulated in the various States.

But today's hearing is on the Indian Gaming Regulatory Act. As the primary sponsor of the act in the Senate, I think it is important that as we consider the information we will receive today, that we have some context in which to place it.

Some of you may recall 14 years ago the United States Supreme Court handed down its ruling in a case known as *California v. Cabazon Band of Mission Indians*.

As we all now know, the Court found that notwithstanding the delegation of authority to various States, including the State of California, to exercise jurisdiction over certain enumerated crimes on Indian lands, because the State of California did not criminally prohibit gaming, the State could not enforce its gaming laws on Indian land.

Thereafter, I think it is fair to say that considerable pressure was brought to bear on the Congress to address the Supreme Court's ruling. So we began the process of developing legislation in consultation with tribal governments, the States, and representatives of the Government of the United States.

We developed draft legislation and held hearings to receive testimony on that legislation. Because some of you may not know what was going on back then, you may be interested to know that the Administration, the Government of the United States, was adamantly opposed to any Federal presence in the regulation of Indian gaming. That was made very clear to all of us.

This opposition was based, in part, on the perception that except for those States in which all gaming was criminally prohibited, meaning the States of Utah and Hawaii, most if not all of the States had extensive regulatory systems in place that had the capacity to assume the responsibility for the regulation of Indian gaming.

We knew that, for the most part, tribal governments did not, at that time, have comprehensive regulatory systems in place. So one of the most basic features of the act, the tribal State compact, was premised upon the anticipation that States and tribes could enter into negotiations, which would include discussions of how tribal gaming could be regulated.

It was anticipated at that time that at least initially, the States would share their experience with regulating gaming with the tribes, and that the tribal governments could draw upon the States' regulatory framework in developing a tribal regulatory structure.

It was thought that the Tribal State Compact would reflect a transition over a period of time, from regulation that was predominately a State regulation, to either a shared regulatory structure, or to tribal regulation, exclusively.

The act left it up to each State to decide and each tribe to decide. But as it turns out, that presumption, the presumption that most, if not all, of the States had extensive regulatory systems for gaming similar to those that existed in Nevada and New Jersey, was not born out in fact.

Because we had a 200-year old history under our Constitution, which clearly established that State laws did not apply in Indian country, it was understandable that tribes were adamantly opposed to State regulation of gaming.

But we had the Administration on the other side; an Administration that was dedicated to the protection of States' rights; and they were equally as opposed to any Federal regulation of gaming.

So as with most legislation, we ended up striking a balance. So we established a National Indian Gaming Commission to serve along with tribes as the regulators of tribal gaming.

At that time, we simply could not project and did not anticipate the growth in the gaming industry generally, and the significant expansion of Indian gaming, in particular.

So the Commission's responsibilities were tailored to what we knew at that moment. At that moment, we did not even know whether there would be enough Indian gaming operations nationwide to warrant having three full-time Commissioners at the Commission.

We also did not know how technology might overtake the definitions of class II and class III gaming that are contained in the act. We thought tribal gaming operations on different reservations might be linked up via satellite; and that as long as the player was on Indian lands, and that bingo was conducted on Indian lands, then the regulatory framework of the act could take this into account and be consistently applied.

Perhaps the most challenging issue was what law would be applied to determine what we now call the scope of gaming. There was little Federal law on that subject. There was the Johnson Act prohibiting gambling devices on Federal lands, and accordingly on

Indian lands. But there was no Federal law that was as specific as the laws of Nevada or New Jersey, and once again, the Administration was opposed to having such a Federal law enacted.

Tribal laws on gaming were sparse, at best, and with rare exception, did not address what we think of as casino-type gaming.

All that was left were the laws of the States, and again, a presumption was made that all of the States had laws on gaming. As it turns out, that was another erroneous assumption; because as years passed and litigation ensued over the scope of gaming, and the Congress was pressed to amend the act, this committee's analysis of the laws of the 50 States found wide variation in those laws, where such laws existed.

In some States, there was just a general prohibition against gaming. Over time, certain exceptions were carved out of that prohibition, such as the conduct of gaming for charitable purposes. That was typical of many States' laws.

In more recent times, exceptions from the general prohibition of gaming and State laws were made for State lotteries. But in each State the laws differed, so the generic approach that we took in the Indian Gaming Regulatory Act, authorizing the States and tribes to negotiate over class III gaming activities that are located in a State that permits such gaming for any purpose by any person, organization, or entity, seemed the most fair way to assure that tribal governments were not foreclosed from doing what others in the State were permitted to do.

The 11th amendment law was not well developed in 1988. So Justice Department attorneys tell us now they could not have advised the committees of Congress that the remedy that the act set up for addressing an impasse in negotiations between a tribe and a State might later be found to be unconstitutional.

Having recounted this history, one might well ask how this act has worked out at all, given all that we did not know then and all that we do know at this moment. That is what we are here today to examine.

How is the Indian Gaming Regulatory Act working? Is it working at all? How many tribal governments have opted to conduct gaming on their lands; and perhaps more importantly, how many have really benefited from gaming?

Reading the front pages of our papers, one would get the impression that all of the tribes have millionaires. We know that some have done very well; that is true. But how many tribal gaming operations have failed? We know that there have been some that are only marginally profitable or which have had to close.

Are there disincentives in the act or obstacles to successful development in the act that have caused some tribal gaming operations to fail?

Given what we know today about the expansion of the tribal gaming industry, is this little commission that the law established adequate to address the growth of the industry?

With the advent of lotteries and river boat gaming and such, have States subsequently developed more comprehensive regulatory structures, and do these State systems serve the tribes well, or not at all?

As has been asserted in the past, is tribal gaming overly regulated? Are there adequate protections in place to assure that those who may be injured on tribal lands have legal recourse for their injuries?

These are some of the difficult and often contentious issues that that committee's ongoing oversight of the act has raised.

What we do know is that Indian Gaming Regulatory Act has given rise to the development of good working relationships between State governments and tribal governments; relationships that in many cases did not exist, prior to the enactment of the Indian Gaming Act.

Across the country, tribal governments and State governments have learned to work together to address mutually shared problems, and where tribal gaming has been successful, State and local economies have thrived, also. Let there be no mistake about that. Many non-Indian communities have benefited.

Whether or not the Congress decides to revisit this act to bring it up-to-date with the contemporary realities of gaming, I do hope that we have established a model that will defend the future of tribal/State relations. Because overall, that model has worked well, and has shown that governments can help one another in important and significant ways.

With those words, I apologize for the length of my statement, but I felt that some foundation had to be set before we began receiving testimony.

Now it is my pleasure to call upon the vice chairman.

STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL, U.S. SENATOR FROM COLORADO, VICE CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

Senator CAMPBELL. Thank you, Mr. Chairman, and I apologize for being a little bit late. I did not hear your first few comments, but I am always interested to hear what the experience of many, many years in the Senate has taught you, particularly in dealing with Indian problems. Thank you for doing a series of hearings on the subject of Indian gaming.

I was on the House side when the Indian Gaming Regulatory Act was signed into law in 1988. In fact, I was on the committee of jurisdiction, as you know, and worked on it very hard with then-Chairman Mo Udall, who was always a great friend of the Indian people.

I think gaming tribes have been very and rightfully vocal about the economic boon it has produced for some, but certainly not for all of them. Some tribes have done very well. They are usually the ones that are blessed by geography and near an urban center.

Some have been able to provide jobs and certainly some problem solving for their people, but have not gotten to the point, as some of the tribes, with their huge per-capita payments; and, in fact, as you mentioned, a few of them have gone broke.

But I do not think most tribes now believe that Indian gaming is the total solution for all the economic problems. It is one of the pieces, and it has given them some new opportunities, and I certainly have been a supporter of Indian gaming.

There have been some well documented studies that have shown the positive impacts that Indian gaming has had on tribal communities, as well as local communities.

I happen to live, as you know, Mr. Chairman, about 200 yards from a casino on the Southern Ute Indian Reservation. I know that their success has been similar to the successes of many tribes in many areas, in that they have provided probably half the jobs in that casino for non-Indian people who live around the area.

So it has been good for the whole community, generally. There have been a few problems, but I think generally it has been very good.

But with the growth of casinos, with more and more coming on line, and more and more tribes talking about opening them, I very frankly think the day will come when the spendable money will be divided and fewer and fewer tribes will be able to enter the gaming market.

But in 1988, who would have ever known that Indian Gaming would grow to what it is now, a \$10-billion industry; and certainly, the recent events in California will mean that there is going to be greater expansion. So I think it is really time to re-evaluate our role as the Federal Government, and so I wanted to commend you on these hearings.

It is true that revenues have increased significantly. It is also true that when we passed IGRA, it was not the Congress' intent to have the Federal Government regulate class III gaming. It was our intent to strictly limit the Federal activity in that arena.

But as you did allude to, we did have to make some concessions to States and we did the best we could. Our intent was to make local government—the States and the tribes responsible for the conduct and regulation of class III gaming.

In the past several years, I have become increasingly troubled by what I see as a growing gap between the duties of the National Indian Gaming Commission, as laid out in IGRA, and its expansion and its mandate. I base these comments in part on letters we have gotten from tribes and comments from tribes, who feel that very often, they are not being consulted with, as the Commission grows.

I want to tell you, Mr. Chairman, I am second to none in my commitment to a vigorous Federal regulatory presence in Indian gaming; but I am also aware that tribes are regulated by the Federal Government, State government, and their own regulatory commissions.

I am not quite sure where we are going with the growth of the Commission. But I would remind the committee that when I was the chairman of this committee and with Senator Inouye's help, I proposed the only change ever made to IGRA, and that amendment was to increase the fees to the Commission by 400 percent, from \$2 million to \$8 million. The increased fees were to be used by the Commission to fulfill its duties as defined by IGRA.

I know that the Commission now receives 100 percent of its operating fees from Indian casinos. As you know, they are interested in doubling that amount, from \$8 million to \$16 million, which would also come from fees assessed on Indian casinos.

I am not quite sure about the direction or the scope or the transparency of what the Commission is going, if the doubling to \$16

million would be justified or not. But there are renewed calls for greater regulation and more resources for the Commission.

So I am interested in these hearings. I am looking forward to the testimony, and thank you very much for convening this, Mr. Chairman.

The CHAIRMAN. Now it is my pleasure to call upon a person I will call my partner, because when this matter was thrust upon us, I thank God that we had John McCain. He came from Indian country.

As we look back now, we spent hours and hours, and days and weeks, visiting Indian country, talking to attorneys general and Governors, and we came up with this bill and the law. So if there is anyone who has lived through the misery and the glory of this bill, it is John McCain.

STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA

Senator MCCAIN. I thank you, Mr. Chairman, for your kind words and your friendship, but most importantly, for your commitment to the betterment of Native Americans, which has characterized your entire distinguished career here in the U.S. Senate.

I thank you and Vice Chairman Campbell for scheduling this committee hearing today. This committee has an important oversight responsibility.

As I understand it, this hearing is the first in a series of hearings that the Chairman intends to hold on Indian gaming issues in the 107th Congress. It has been my pleasure to work with the Chairman on this issue for over 14 years, and with our dear friend and colleague from Arizona, Mo Udall, before that. There are few issues which are of more significance for Indian communities.

I would like to just point out, since the passage of the Indian Gaming Regulatory Act, the Indian gaming industry has grown beyond any expectations. We all know that it is now approximately 196 tribes, that are operating 309 gaming facilities, with revenues that exceed \$10 billion.

In my home State of Arizona, 17 tribes currently manage tribal casinos. Income from Arizona Indian gaming has been reported to support more than \$250 million in purchases of goods and services in the State of Arizona.

From time to time, we will hear about controversies in Indian gaming, alleged misconduct of gaming officials or managers or other problems with the act, that potentially interfere with responsible and sound regulatory structure. These are important issues, and should be raised and discussed before this committee.

It is also important to recall that Indian Gaming Regulatory Act is in place due to years of extraordinary efforts in the Congress to establish a regulatory and statutory structure, where none had previously existed.

Before the law was passed, the 1987 *Cabazon* decision made clear that tribes could operate gaming, unfettered from State regulation. There may be areas which require improvement, but we should clarify for the record the status of regulation among the three regulatory entities under IGRA: Tribal, State, and Federal.

In this hearing today and in those to come in the months ahead, I hope to hear about the following: The adequacy of the Federal regulatory structure, and whether the existing structure is adequate to deal with existing gaming industry and its potential growth; areas where the law might need improvement; and investment by tribes in their regulatory structures.

Many assumptions were made about how Indian gaming would be regulated when the law was passed. We are in a much different position now. I know that Senator Inouye and I would agree that we should do everything necessary to protect the integrity of the gaming industry, and that is why we are here today.

I would just like to say, we could not invite every gaming tribe to testify, to hear all those who may be concerned about Indian gaming. We, on the committee, asked for testimony and comments from every Indian gaming tribe, and their views will be considered.

I know that tribal leaders will agree that an appropriate regulatory structure is an important component of self-sufficiency; whether it is for their government operations, general business enterprises, or Indian gaming.

Again, I thank the Chairman for his incredible service on this and other Native American issues, and I thank my cochairman, Senator Campbell, as well. Thank you, Mr. Chairman.

Mr. Chairman, I would like to have my complete statement made a part of the record.

The CHAIRMAN. Without objection.

[Prepared statement of Senator McCain appears in appendix.]

The CHAIRMAN. Thank you very much, Senator. Your kind words are deeply appreciated.

Now it is my pleasure and privilege to call upon a new member of the committee. But when it comes to Indian affairs, he is an old hand. He is from Lakota land: Senator Tim Johnson.

STATEMENT OF HON. TIM JOHNSON, U.S. SENATOR FROM SOUTH DAKOTA

Senator JOHNSON. Thank you, Mr. Chairman. Again, I join Senator McCain's commendation to you for your extraordinary leadership over a long period of time on very, very difficult issues, and always with your heart in the right place, each and every time.

I want to commend my friend from Colorado, as well, Senator Ben Nighthorse Campbell, for his leadership on this committee, as well.

Mr. Chairman, I sought out a seat on both the Indian Affairs Committee and on the Appropriations Committee for the 107th Congress, in large measure, out of concern that we pursue in every way possible ways to improve upon and to build constructive, respectful partnerships between the Federal Government, in a government-to-government relationship with our tribes, in order to facilitate the development of greater opportunity and prosperity in Indian country.

In my home State of South Dakota, we have nine reservations; eight of which have Indian gaming operations going on. But 3 of the 10 most impoverished counties in America are South Dakota Native American counties. On the northern plains, we have what would have to be described simply as a desperate plight.

There are many factors that we can pursue that would contribute toward breaking this cycle of poverty that has gone on for so long.

I invite all the members of the committee, and many of you have been to South Dakota, but for those of you who have not, I would invite you, because it is a shocking reality that goes on each and every day, with unemployment in the high and 70 and 80 percentile range. It has public health issues that are disastrous, and all the symptoms that go with poverty and a lack of economic opportunity.

I applaud your work, Mr. Chairman, and Senator McCain and Senator Campbell's work on the Indian gaming issues. As has been noted, Indian gaming is not a cure-all. It is mixed in terms of the opportunities that it extends to various tribes, based on their geographic locations and other factors at work.

But after having seen the consequences of over 100 years of no economic progress whatsoever taking place in South Dakota, I would have to say that this has been the first significant job creation opportunity that we have had in South Dakota. In many ways, I wish that the opportunities were building computers or doing other things.

But the reality is, this is the only thing that has happened, that has created jobs by the thousands. It is creating the beginning of a middle class in Indian country in South Dakota. It is giving people the financial resources to attend their tribal colleges, to develop more teachers and nurses and managers and role models in the communities.

It has put a few bucks in the pockets, modestly so, but nonetheless, a few bucks in the pockets of thousands of tribal members in South Dakota.

That, in turn, has led to, by and large, better relationships with the non-Indian community, and has also created an enormous number of jobs for non-Indian residents of our State, who live near these reservations, and who often also share in a lack of economic prosperity and opportunity.

We need to have these oversight hearings. There may be ways that we can improve upon the regulatory structure, and we need to always be open to that.

We also need, however, to recognize that we need to approach these issues in a partnership basis with the tribes themselves. It is not a question of our imposing solutions or strategies on the tribes, but that our working with the tribes, in a constructive fashion, is what we need to pursue in this committee. That is the approach that you have always taken, Mr. Chairman.

So I look forward to the testimony here today, and I am very hopeful and very confident that these hearings will, in fact, be constructive toward our ultimate goal of creating more opportunity, more prosperity, and a larger private sector economy throughout Indian country in general.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank you very much, Senator.

We have eight witnesses, representing a wide spectrum of citizens who are interested in Indian gaming. I am certain that there are many, many others who are interested in gaming, and would like to have their views made known to us.

Therefore, this committee will be pleased to receive written testimony, which will be incorporated in the record of the hearing, and the record will be kept open for this purpose until the end of August.

May I now call upon the Deputy Commissioner for Indian Affairs, Department of the Interior, Sharon Blackwell. She will be accompanied by George Skibine, Director, Office of Indian Gaming Management, Department of the Interior; the Chairman, National Indian Gaming Commission, Montie R. Deer; the Commissioners of the Gaming Commission, Elizabeth Homer and Teresa Poust.

Ms. Blackwell, it is always good to see you; welcome, again.

STATEMENT OF SHARON BLACKWELL, DEPUTY COMMISSIONER OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR ACCOMPANIED BY GEORGE SKIBINE, DIRECTOR, OFFICE OF INDIAN GAMING MANAGEMENT

Ms. BLACKWELL. Thank you and good morning, Mr. Chairman, Mr. Vice Chairman, and members of the committee.

My name is Sharon Blackwell. I am the Deputy Commissioner of Indian Affairs. I have asked George Skibine, the Director of the Office of Indian Gaming Management, to sit here beside me.

I am pleased to be here today to present an overview of the role of the Secretary of the Interior in the implementation of the Indian Gaming Regulatory Act of 1988.

At the outset, let me state that the Department strongly supports the underlying purposes of the Indian Gaming Regulatory Act (IGRA) to provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments.

Since the enactment of IGRA in 1988, many Indian tribes have come to consider gaming as an effective means of generating revenue, to fund tribal programs, and to stimulate economic development on depressed Indian reservations and in Indian communities.

Although precise financial data may not be readily available, there is no question that Indian gaming is a working tool for tribal economic development, and as a matter of Federal policy, the department supports tribally-owned gaming under IGRA.

Congress has placed regulatory and enforcement functions under IGRA with the National Indian Gaming Commission. The role of the Secretary is to implement specific residual statutory functions under that statute.

Those functions, and they will be defined and their implementation will be described in greater detail, very briefly are the approval of class III gaming compacts between Indian tribes and States; the approval of revenue allocation plans for per capita payments of gaming net revenues to tribal members; for making a two-part determination, when newly acquired lands are sought to support Indian gaming ventures; promulgation of class III gaming procedures in circumstances where a tribe and a State cannot agree on the terms of a compact; and finally, the appointment of two Commissioners on the National Indian Gaming Commission.

In addition, although IGRA does not refer to these functions specifically, the Secretary is also involved in reviewing applications to place lands in trust for gaming, reviewing gaming-related land

leases, reviewing certain gaming-related agreements for services relative to Indian lands under 25 U.S.C. section 81, and making legal determinations regarding whether parcels of land qualify as Indian lands under IGRA.

IGRA provides that class III gaming activities shall be lawful on Indian lands only if such activities are, among other things, conducted in conformance with a tribal State compact, entered into by an Indian tribe and a State, and approved by the Secretary. This remains one of the central roles of the Secretary of the Interior.

The statute provides that the Secretary may only disapprove a compact, if the compact violates any provisions of IGRA, or any other provision of Federal law that does not relate to jurisdiction over gaming on Indian lands; or finally, if it would violate the trust obligations of the United States Government to Indians.

The Secretary must approve or disapprove a compact within 45 days of its submission, or the compact is considered to have been approved, but only to the extent that the compact is consistent with the provisions of IGRA.

A compact takes effect when the Secretary publishes notice of its approval in the Federal Register. As of today, the Secretary has approved 212 compacts in 24 States for class III gaming between Indian tribes and States. The department also takes the position that amendments to compacts are subject to review and approval of the Secretary.

If an Indian tribe and a State are unable to reach agreement during the negotiations of a compact, IGRA provides a statutory scheme that can result with the issuance of class III gaming procedures to be developed by the Secretary. To date, the Secretary has issued class III procedures for only one tribe.

On April 12, 1999, at 25 CFR, part 291, the Secretary published rules which authorized the Department of the Interior to promulgate class III procedures in those circumstances when a State and a tribe are unable to voluntarily agree on a compact, and the State has asserted its immunity under the 11th amendment, in response to a suit brought by an Indian tribe.

To date, seven tribes have filed an application with the Bureau of Indian Affairs [BIA] for class III gaming procedures. The BIA has rejected three of these applications, and we are still considering the application of four other tribes.

The Secretary in response to a lawsuit which has challenged the authority to promulgate these regulations, will, of course, abide to a commitment made by her predecessor not to issue class III procedures for any tribe until a final judicial determination is rendered, in any lawsuit brought by a State challenging the authority of the Secretary to promulgate the regulations at part 291. The State of Florida and the State of Alabama have jointly filed a lawsuit against the Secretary regarding this matter.

Very briefly, under IGRA, the Secretary is charged with the review and approval of tribal revenue allocation plans that relate to the distribution of net gaming revenues. Net gaming revenues from class II and class III gaming may be distributed in the form of per capita payments to members of an Indian tribe so long as the tribe has prepared a tribal revenue allocation plan, which has been approved by the Secretary.

On March 17, 2000, the BIA published a rule at 25 CFR, part 290, which established the procedures for the submission, review, and approval of tribal revenue allocation plans. To date, the BIA has approved 55 such revenue allocation plans.

The decision to place land into trust for the benefit of an Indian tribe, and particularly where the use of that land will be used for gaming, is at the discretion of the Secretary, after consideration of the criteria for land acquisitions in 25 CFR, part 151.

When an acquisition is intended for gaming, consideration of the requirements of section 20 of IGRA also apply. Section 20 of IGRA prohibits Indian tribes from conducting class II or class III gaming activities on lands acquired in trust by the United States after October 17, 1988, unless one of several statutory exceptions apply.

To date, the department has approved 20 applications that have qualified under the legislative exceptions to the gaming prohibition contained in section 20.

However, if none of the specific legislative exceptions in section 20 apply, an Indian tribe may still conduct gaming activities on newly-acquired trust lands, if it meets the requirements that are specifically set forth in 20(b)(1)(A) of IGRA, which provides that gaming can occur on the land if the Secretary, after consultation with appropriate State and local officials and officials of nearly Indian tribes, determines that a gaming establishment on the newly-acquired land will be in the best interests of the tribe and its members, and will not be detrimental to the surrounding community; but then only if the Governor of the State in which the gaming activities are to occur concurs with the Secretary's two-part determination.

Since October 17, 1998, State Governors have concurred in only three two-part Secretarial determinations for off-reservation gaming on trust lands that are newly-acquired.

The department published a proposed rule in the Federal Register on September 14, 2000, which would set forth the procedures for an Indian tribe to follow in seeking a two-part Secretarial determination under section 20.

The Secretary of the Interior is in the process of evaluating the merits of that proposed rule that had been issued by her predecessor.

Finally, I would like to touch just very briefly on the role of the Secretary in approving gaming-related agreements under 25 United States Code Section 81. The National Indian Gaming Commission [NIGC] is charged under the Indian Gaming Regulatory Act with the review and approval of management contracts.

As a matter of practice, all gaming-related agreements that are submitted to the BIA are referred to NIGC, the National Indian Gaming Commission. The National Indian Gaming Commission is charged under IGRA with review and approval of management contracts.

As a practice for the BIA, any time a gaming-related agreement is submitted to us by a tribe or any other entity, we refer that agreement to the Gaming Commission for their review.

If the Commission makes a determination that a gaming-related agreement is not a management contract, or is not otherwise subject to the Commission's review and approval under IGRA, then the

agreement is forwarded to the BIA for a determination as to whether or not that agreement is subject to the residual approval authority of the Secretary under 25 U.S.C. section 81.

The department then determines if it is subject to section 81, and it, of course, begins the deliberations as to whether or not, under the Secretary's broad trust responsibilities, that agreement should be approved.

Congress substantially amended section 81 last year, and the Department recently published regulations at 25 CFR, part 84 to implement these amendments to section 81. The amendments that result in our authority for approval of agreements are limited to any agreements that would encumber trust or restricted land for a period of 7 years or more.

This concludes my prepared statement. I am most happy to answer any questions that the committee may have of me, or I know Mr. Skibine would be most happy to answer any questions that you may have, with regard to the management of the BIA, Indian Gaming Office.

Thank you.

[Prepared statement of Ms. Blackwell appears in appendix.]

The CHAIRMAN. I thank you very much, Commissioner Blackwell. Mr. Skibine, would you like to add anything?

Mr. SKIBINE. No; I do not, thank you.

The CHAIRMAN. Now it is my privilege to call upon the Chairman of the National Indian Gaming Commission, Chairman Deer.

STATEMENT OF MONTIE R. DEER, CHAIRMAN, NATIONAL INDIAN GAMING COMMISSION

Mr. DEER. Mr. Chairman, Mr. Vice Chairman, and members of the committee, my name is Montie Deer, and I am chairman of the National Indian Gaming Commission.

Thank you for giving us the opportunity to appear before you today, to testify on the activities of the NIGC. I, along with Vice Chairman Elizabeth Homer and Commissioner Teresa Poust, thank you for your ongoing support and interest in tribal governmental gaming regulation and the NIGC.

This statement will summarize my written submission and, therefore, reflect my three goals for this morning. First, I will highlight the magnitude of the rapid growth of the Indian gaming industry.

Second, I will discuss the history, activities and accomplishments of the NIGC. Finally, I will summarize some of the more pressing challenges facing the NIGC in our attempts to keep up with this growing industry.

Simply stated, the Indian gaming industry has experienced exponential growth since the passage of the Indian Gaming Regulatory Act of 1988, when annual gross revenues totalled \$100 million. In the year 2000, the industry generated over \$10.6 billion in gross gaming revenues.

I would refer to chart number 1, which is the bar graph. It is included in the package. You will notice on the bar graph that in 1997, when we received the \$8 million cap, that Indian gaming was at \$7.451 million. In 1998, it goes up to \$8.5 billion. In 1999, it

goes almost to \$10 billion, and then it is over \$10 billion in the year 2000, while we remain at a flat \$8 million budget.

So at the same time the Commission's experiences are slow in proportion to little growth, we are increasing from a \$3-million per year operation to a \$8-million per year operation, with 77 employees.

After Congress authorized the additional resources in 1997, the Commission used those additional resources to build a structure for improved regulation and oversight of Indian gaming. Before the expansion, 20 percent of our employees were working in the field. Today, more than 45 percent of our employees work in the field.

As I have noted previously, the 1997 increase in our budget authority occurred in an environment where the Indian gaming industry was growing at a very rapid rate.

This growth, coupled with our \$8 million cap fee means that we have been able to set fees at the modest rate of eight one-hundredths of a percent of gross gaming, after allowing the tribe to exempt the first \$1.5 million. Thus, a tribe that generates \$11.5 million in gaming revenue would pay an annual fee to the NIGC of \$8,000.

Although the Commission has taken a careful and disciplined approach to expanding our institutional capacity and presence in Indian country, industry demands on the Commission resources are quickly exceeding our capacity to meet the regulatory needs effectively.

We were especially hard hit by the explosion in gaming in California. As you know, California passed proposition 1A in the year 2000, in March. There are 109 federally-recognized tribes in California; 74 of the California tribes have approved gaming ordinances and 62 have approved compacts.

This year, seven new gaming operations have opened and more are under construction. Our Sacramento office has been consumed by the demands on Commission resources to meet regulatory needs effectively.

In addition to spending 60 percent of their time visiting sites, the region chief and our three field investigators in Sacramento are running weekly training sessions to help the tribes accomplish some of the basic regulatory functions such as licensing and background investigation.

The other major impact on the Commission resulting from the change in California has been the wave of management contracts. Once the gaming industry satisfied itself that casino-style gaming in California was lawful, there was a rush to enter contracts with Indian tribes for the management of tribal gaming.

The number of management contracts received in 1998 before proposition 1A was 17. The number received in 2000 was 27, an increase of nearly 60 percent.

Industry predictions for California Indian gaming have ranged anywhere from \$3 billion to \$10 billion in annual revenues. We, at the Commission, are not sure where it will end up, but the impact of the industry, as a whole, and ultimately, this Commission, is undeniable.

The Commission's 77 full-time employees are divided among office headquarters and five field offices, and I believe we remain a lean organization. We have divided the staff into seven divisions.

If you will look at chart 3, you will see the organizational chart and where the folks are located. It is hard to read, I know, but you do have a copy. You will notice that in the compliance section is where most of our people are located.

The Commission continues to place a high priority on encouraging and supporting strong, effective, independent tribal gaming Commissions. As governments, tribes provide the front-line, day-to-day regulation of tribal governmental gaming activities, and they generally do that through a tribal gaming Commission.

The Commission, that is Commissioner Poust and Vice Chairman Home and I, have embarked on an aggressive training program initiative for tribal gaming Commissioners and regulators. Clearly, the integrity of Indian gaming depends, however, most heavily upon those efforts of tribal regulators who work with the operations on a daily basis.

We, however, provide training in relatively formal sessions, where our representatives talk to gatherings of tribal representatives. We also do it on informal sessions, where field investigators or auditors work on-site with the tribe.

It is probably safe to say that on almost every work day, somewhere a representative of the NIGC is providing face-to-face advice or assistance on IGRA compliance to someone involved in the operation of regulation of an Indian gaming operation.

I am also pleased to report that the Commission's partnership with the National Judicial College at the University of Nevada at Reno, to offer a course entitled, "Essential Skills for Tribal Gaming Commissions," has been successful. Ninety tribal gaming Commissioners have attended that course in the first two sessions.

Vice Chairman Homer, Commissioner Poust, and I are deeply committed to the principles of government-to-government relationship with the tribes, and respect for tribal sovereignty. These principles are not always easily reconciled with our role as regulators, but we certainly have tried.

Our rulemaking has been carried out using tribal advisory committees, and we hold public hearings on our proposed regulations in locations that are accessible to tribal representatives.

Furthermore, the Commission has held quarterly consultations across the country, in order to obtain input from tribal gaming representatives and leaders. This Commission has conducted four government-to-government consultations with more than 60 tribes.

The consultations consist of small meetings between the Commission and the leaders of the individual tribes. The process by which we conduct these consultations has become a hallmark of this Commission.

In closing, the Commission finds itself at a critical juncture during this period of unprecedented growth in Indian gaming for all the reasons I have touched upon. Thus far, the Commission has been able to meet the challenges that we feel are presented by Indian gaming, although I am frankly concerned about our future, at this point.

We have a staff of dedicated, skilled professionals, who are committed to the proposition that gaming revenue can make a positive difference in Indian country, and that balanced, effective regulation is the key to keeping the Indian gaming industry healthy.

With our current force of auditors, it will take between 20 and 30 years to conduct an audit of the internal controls of every Indian casino. These audits should be occurring every 5 years.

While the background investigation work that we do on management contracts is covered by fees from the applicants, our financial analysts are stretched too thinly, and compliance with the National Environmental Policy Act has required us to divert staff members from other assignments and to expand scarce funds on expert consultants.

We can and will continue to get the job done with the resource limits that Congress sets. But I would be remiss if I did not ensure that this committee understands how the NIGC is faring in this face of dynamic change in the Indian gaming industry.

I hope this testimony and the written testimony has been responsive to your request. I thank you for your attention, and I will be happy to address any questions.

[Prepared statement of Mr. Deer appears in appendix.]

The CHAIRMAN. Thank you very much, Chairman Deer.

Now may I call upon Vice Chair Homer.

STATEMENT OF ELIZABETH HOMER, COMMISSIONER, NATIONAL INDIAN GAMING COMMISSION

Ms. HOMER. Thank you, Mr. Chairman. I just wanted to say to you this morning how much we appreciate this opportunity to raise our concerns with committee, and to emphasize again the points that the Chairman has made this morning with regard to issues confronting the National Indian Gaming Commission.

We work very hard, Mr. Chairman, to ensure that we have proper and ongoing communications and input from the tribal leadership and from the tribal gaming associations around the country, and with NIGA, in particular. We work very hard to understand what the tribes are confronting in their attempts to comply with our regulatory efforts. We thank this committee for this opportunity to be here this morning.

The CHAIRMAN. I think you very much.

May I now call on Commissioner Poust.

STATEMENT OF TERESA POUST, COMMISSIONER, NATIONAL INDIAN GAMING COMMISSION

Ms. POUST. Thank you very much, Mr. Chairman. I would just like to echo Chairman Deer and Vice Chairman Homer in thanking you all for giving us the opportunity to be here today. I really have nothing to add to the previous testimony. It is always difficult coming third with these two remarkable individuals. So I would be more than happy to answer any questions that you may have.

The CHAIRMAN. Thank you very much.

May I proceed questioning first with the Chairman, if you do not mind?

You have testified that the gross revenue for Indian gaming is in excess of \$10 billion. What is the gross revenue nationally for all gaming in the United States?

Mr. DEER. I do not have that fact in my brain this morning, but I will get it to you. I do not know.

The CHAIRMAN. I have been told, and I have no documentation, that Indian gaming consists of about 10 percent of the national gross?

Mr. DEER. I have been told seven percent.

The CHAIRMAN. Mr. Chairman, could you describe the process that the Commission follows in carrying out its responsibilities under the act to review all management contracts and collateral agreements?

Mr. DEER. I would be happy to, Mr. Chairman. When a contract is received by the NIGC, if it says it is a management contract, it goes directly to the management contract division. If it is not designated as to what it is calling itself, it goes to the Office of General Counsel for legal review.

If the document is said by General Counsel that it is, in fact, a management contract, then General Counsel notifies the parties that we find that, regardless of what you have called the document, it is a management contract, and you are going to have to resubmit it to the management contract division.

There are other contracts that we do not consider to be management contracts. When we get that type of a contract, one of three things occurs. We send it back and we say, this is not a management contract, by our definition and under the act.

We will forward it to the BIA for their review, and if we think there are problems with it, then what we say is, we find some concerns about this contract that you have with the tribe. Would you please address the following things and items that we have placed in the letter, and we wait for a response.

If we say we really do not know, but we have our concerns that it might be a management contract, we are going to give this to enforcement for their review by auditors and field investigators, et cetera.

Now the interesting thing, Mr. Chairman, is that any contract entered by a company with a tribe that is found to be a management contract without approval is a void contract. They are also subject to enforcement by us for management without a contract.

We have had two recent ones; one against JPW, that went all the way to the 11th Circuit, in which our fine of \$3.4 million was upheld, that they were actually managing without a contract.

So it behooves both parties to make sure that we review all documents, and it does behoove them to provide us with the information that we have requested.

Now let us go back to whether it is a management contract. Three things occur there. We first look at the contract itself to see if it follows what is found in IGRA, the details of the contract.

Second, we do background investigations, both criminally and financially, of the parties, if it is a class II and class III management contract. Under IGRA, we do not have the right to ask for resources or repayment for the investigation of backgrounds of financial and criminal matters, when it only is a class III contract. But

rest assured, if we have any information, we spend our own money to do that.

Finally, we have NEPA, which is giving us a large problem in California, because it is new construction, and we have to approve of any problem that might occur with an environmental impact with that contract.

So if it is a contract, three things occur. We look through it. We compare it to the act. We do the background investigations, which are paid for by the persons submitting the contract.

We probably get 80 to 95 percent of that, because we use those people for other jobs, as well, who do that background investigation, such as training. Then, of course, we have NEPA. I do not know if that answered your question.

The CHAIRMAN. I am asking that because many Indian nations have complained about the over-regulation and the commission's heavy hand, as some have described it. I realize that every application is unique and different. But on an average, how long does that process take?

Mr. DEER. It is all different, because of the fact that we do not always necessarily get all the things that we need to look at. So on our web site, we actually have prepared by Fred Stuckwich a list of items which we tell the tribes that they need to submit to us before we can continue with it. I would defer to staff as to what an average time is.

The CHAIRMAN. Are you satisfied with the relationship that has developed between your Commission and the Interior Department? I ask this question because I realize that the law requires close collaboration and work.

Mr. DEER. Yes; we have a very good relationship. George's committee and our people meet probably at least once a month. We have a MOU on land issues at this time.

The CHAIRMAN. Does the department advise the Commission of its disposition on the contracts submitted to the department by the Commission?

Mr. DEER. Could you say that again?

The CHAIRMAN. Once you submit a contract to the Interior Department, do they advise you as to what they did with it?

Mr. DEER. Not in a formal manner, but I understand that Mr. Skibine does tell our people in the informal meetings what they have done with them, if anything.

The CHAIRMAN. Why not in a formal manner?

Mr. DEER. That I do not know. You would have to probably ask Interior. I do not know.

The CHAIRMAN. I notice the Vice Chairman is eager to respond.

Ms. HOMER. I was going to actually whisper to the Chairman that it is our understanding that those contracts may be reviewed in the regional offices of BIA, and sometimes that information may not come back.

The CHAIRMAN. Does the Commission believe that it has the authority, or is required by the act, to review a contract that terminates a management contract?

Mr. DEER. Mr. Chairman, if you will look at 2711, and I think it is B(6), it talks about termination in regard to contracts. In that regard, it specifically says that the Chairman does not approve a

termination contract. Yet, at the same time, it says that we must make sure that there is a termination clause in the contract.

The CHAIRMAN. Would you advise the committee why the Commission is proposing to make a change to the regulations, which address the definitions of electronic or electro-mechanical facsimiles of a game of chance?

Mr. DEER. With all due respect, that was a 2-to-1 vote, Mr. Chairman, and I did not vote on that proposal in the affirmative. So I would ask that either one of my colleagues make their remarks toward that.

If you would like to know my position of why I voted no, I would be more than happy to give it to you in written form.

The CHAIRMAN. That is fine, sir.

Vice Chair?

Ms. HOMER. Thank you, Mr. Chairman.

Let me just say that in attempting to provide a meaningful distinction between technical aids and electronic facsimiles, the first permitted and the second prohibited under IGRA, and to make sense of the latter term, the Commission promulgated regulations in 1992, defining electronic facsimile as any game of chance, as any gambling device, as defined by the Federal Gambling Devices Act, also known as the Johnson Act.

While this definition was convenient, it was also very broad, and this has resulted in a significant amount of litigation over time.

Some of this litigation has recently culminated in a series of Federal Circuit Court decisions, in which the Courts have generally ignored the NIGC definition; preferring, instead, a plain meaning approach to the term. Please note that these courts, arguably, would have been obliged to reach a different conclusion, had they applied the NIGC definition.

We now find ourselves in a situation where the Commission's own rule is inconsistent with the legal interpretation of IGRA by three separate Federal Circuit Court of Appeals. Obviously, this presents a serious impediment to the effective regulation of gaming, which is why the Commission has published for comment a proposed amendment of this definitional regulation.

The proposal would enable the Commission to apply the term according to its plain meaning, as the Courts have uniformly done. This approach will have two clear benefits. First, the Commission, in applying its expertise in any given case, will be using the standard likely to be used when and if the case is appealed to the Courts, leading to a greater consistency and greater deference to Commission determinations.

Second, this will remove the potential for the Commission's classification decisions to foreclose Johnson Act enforcement actions or otherwise create confusion with regard to Federal criminal law.

Because the Commission need not necessarily make a Johnson Act determination to determine whether a game is within class II or class III of IGRA, some would argue that incorporation of the Johnson Act has injected needless confusion into what should be a simple term, by its own plain meaning.

The CHAIRMAN. I will have to analyze that. [Laughter.]

It takes a little while to get here. [Laughter.]

I will come back to questioning again, but I have just one last question for you, Mr. Chairman, if I may. You have indicated that as the growth of the industry can be described as being exponential, I think is the word you used, the amount that you are budgeted to receive has remained constant.

What would you consider to be a reasonable amount, that would provide you enough so that you can carryout your responsibilities in the best way possible?

Mr. DEER. We have had skull sessions about that, and I think probably somewhere in the range of \$12 million would be appropriate.

The problem is, you see, Mr. Chairman, at some point, there is going to reach a plateau, and there is not going to be any more Indian tribes to have gaming. So the growth is going to have to level off, too. When that occurs, would that occur after California; who knows?

The CHAIRMAN. May I now call upon the vice chairman? Thank you very much, sir.

Senator CAMPBELL. Thank you, Mr. Chairman.

I am going to have to analyze Ms. Homer's testimony, too. But as I remember, it was one of the things that I asked the Commission to do, so I thank you for looking into that.

You know, Mr. Chairman, most of the testimony that we have heard, I think just at first blush, a person that has never watched these proceedings before would get the impression that the only people that regulate Indian gaming are working at the NIGC, which is far from the case, as you know.

I was looking at some of the other testimony, which is yet to be presented, and I noticed, in fact, the Oneida Nation is an example. That Commission, the Oneida Gaming Commission, spends approximately \$8.8 million every year to regulate and protect its gaming operation.

That cost enables the nation to pay for 206 employees that are engaged in regulating gaming operations at Turning Stone Casino and Resort, which includes audits and all the other things that go with the regulatory process. So I think it needs to be said for the record that the NIGC is not the only body that is involved in this regulatory business.

Let me ask a few questions, and maybe I will start it with Sharon Blackwell. Sharon, as I understood your testimony, since IGRA has been enacted, a total of three applications for off-reservations have been approved by the department, which is roughly one every four years or so. Clearly, there is not a big rush to do those.

Do you think that process needs to be overhauled? I want to tell you, I think it is probably good that we are very careful in doing it. You mentioned the input needed from local communities and the Governor, and I think that is all really important when you talk about non-contiguous land that may be put in trust for the purpose of gaming.

It is a really dicey thing that we get into, with local government, as you know. We talk about overruling local zoning and land use policies and so on. But I wonder with the slowness of processing, if we need to make changes to improve that?

Ms. BLACKWELL. There have been three such processes. Of the two-part determination that required concurrence by the Governor, there have been three that have received the Governor's concurrence.

Senator CAMPBELL. How many applicants are you processing now or looking at?

Ms. BLACKWELL. How many?

Senator CAMPBELL. Mr. Skibine.

Mr. SKIBINE. How many have we considered since the enactment of IGRA?

Senator CAMPBELL. Yes.

Mr. SKIBINE. I think probably a dozen or so. I do not have the figure right here.

Ms. BLACKWELL. The process is time consuming. It involves, as the committee knows, consultation, and the consultation involves discrete groups. Nearby tribes are consulted with.

Senator CAMPBELL. I support that.

Ms. BLACKWELL. The department strives to achieve some kind of consensus, and in many instances, the consultation fosters side negotiations.

I do not know how you would speed up that process, without setting some kind of artificial timeframes on it. We would be happy to work with the committee, however, on any ideas you may have.

Senator CAMPBELL. Well, do you think you need any legislative authority to do that, or is there a way you can streamline the process within your existing authority?

Ms. BLACKWELL. It depends, in large part, on the will of the people that we are consulting with.

Senator CAMPBELL. I see. Let me ask you one other thing, too. As I understand it, after *Seminole v. Babbitt*, you are looking at an alternative procedure for compacting. What is the status of the Seminole application for that so-called alternative compacting procedure?

Ms. BLACKWELL. I am going to ask Mr. Skibine to answer that. He has been working on that particular case.

Senator CAMPBELL. Okay.

Mr. SKIBINE. The department is currently considering the application of the Seminole Tribe and also the Miccosukee Tribe of Florida. Both applications are pending in our office.

On January 19 of this year, the department issued a scope of gaming decision which was, by agreement of the parties, the first issue to be resolved since the dispute between the tribe and the State, resolving the scope of the gaming decision.

The new Administration, as you may know, has withdrawn that opinion, in order to give the new Administration and the new assistant secretary, who just came on board, and the new solicitor, who will be on board shortly, the opportunity to review the complex legal issues that are involved in this process.

Senator CAMPBELL. All right, that will do; thank you.

Let me ask Montie Deer several questions, too. The Commission has cited explosive growth in California as the main reason it needs more funds, but there are limited duties.

Have you calculated how many operations will begin operating in California over the next few years, and how that is going to affect the Commission?

Mr. DEER. Yes, we have, Mr. Vice Chairman. Prior to proposition 1A, there were 39 gaming operations. Today, there are 46. The best estimate, through 2003, is 60. I told you, I think, that approved gaming ordinances approached 74, and tribes with tribal State compacts in California is 62.

Senator CAMPBELL. The IGRA does not delegate the responsibility of regulating class III gaming to NIGC, does it?

Mr. DEER. Well, I think there might be a difference of opinion there. In the past, if I can refer to class III and what has been said by this Commission in the past, and where we feel we get the authority, you might say that it is apparent on the face of the 1988 act.

When you enacted IGRA in Congress, among other things, it was to protect gaming as a means of generating tribal revenue. Congress explicitly created the Commission to establish Federal standards for gaming on Indian lands. Congress provided that the Commission would approve tribal gaming ordinances for class II and class III gaming.

Congress provided that net revenues from tribal gaming will be used only for specified purposes. Congress specified that annual outside audits must be conducted over both class II and class III, and provided to the Commission. I would assume that this presumes that the Commission would bear some responsibility for protecting the integrity of their revenue stream that underlies the audits in revenue allocation plans.

So in light of the expressed Congressional purposes, it follows that there must exist some rules for handling of cash and the tracking of transactions which occur with great frequency in a gaming operation. There appears to be no good reason perhaps to think that only exists for class II.

Second, in 1997, when you all amended IGRA, we were told that we could now collect fees from gaming from class III. I do not think it stands to reason that we should be able to collect fees from class III, with no authority to regulate.

That has been the position of the Commission in the past. Of course, there is also 2713, that gives us authority to issue notice of violation, fines, and closure orders, for violation of our regulations, and so on and so forth.

Senator CAMPBELL. Let me refer to the committee report that was processed when we passed IGRA in the first place. On page 3. Let me just read it to you.

S. 555 recognizes primary tribal jurisdiction over bingo and card parlor operations, although oversight and certain other powers are vested in the federally-established National Indian Gaming Commission.

For class III casinos, parimutuel, and slot machine gaming, the bill authorizes tribal governments and State governments to enter into tribal State compacts to address regulatory and jurisdictional issues.

Mr. DEER. I know that is in there, and I have read it before. You must remember, too, when you look at the act, we have no authority to do backgrounds for those compacts for the class III gaming, because it was assumed that the compacts would cover background investigations, both financial and criminal. They do not all do that.

Senator CAMPBELL. I see. Thank you for clarifying that.

Let me go to your pie charts here, since we had talked once before about increasing the authority to collect \$16 million up from the \$8 million.

I am looking at your own pie chart. I have a small one up here. Seventy-three percent of the allocation for 2001 goes to salaries. Is that correct?

Mr. DEER. That is correct. That is for 77 employees.

Senator CAMPBELL. Okay, if you divide the 77 employees by the 73 percent, which is \$5.4 million, it comes out to \$75,800 per employee annually, as a salary.

If your authority was increased to \$16 million to collect from the tribes, can the committee assume then that the proportionate amount of the additional \$8 million would also be the \$75,800 per employee average?

Mr. DEER. Well, of course, if Congress gives everybody that is a Federal employee a raise, I have a little problem saying that, probably.

Senator CAMPBELL. Let me just ask maybe one or two more questions. You have testified that NIGC was "unaware" of the great potential for industry growth in California. Now I understand that. Nobody has a crystal ball.

But as I recall, in November 1998, is when the California voters authorized tribal gaming. Is that correct?

Mr. DEER. That is correct.

Senator CAMPBELL. Well, that is the same month that I, along with the help of Senator Inouye, introduced an amendment to increase the budget from \$2 million to \$8 million. How is it that you did not start planning at that time, when we quadrupled the budget, if we knew, by the vote of California, that there was going to be an increase of gaming?

Mr. DEER. Of course, I was not at the Commission then. But if you will recall, there was a letter sent, I believe, to the committee from former Vice Chairman Phil Hogan, in which we outlined what we thought the growth and procedure would be.

Then I recall meeting with all of you, and I remember Senator McCain asked me the question of whether I thought the \$8 million would be enough. I told him, well, we had not got there, yet, and I really honestly do not know.

That was when we decided to get the field investigators out of the back seats of their cars and trunks of their cars, and put them in buildings where the tribes knew where they could find them.

Senator CAMPBELL. Considering the growth in California, have you done some kind of a detailed strategic plan, which contains some performance goals and projects, how they will be reached by your agency?

Mr. DEER. We are working on that at the present time. The problem we are having in California, as you know, internally, we do not know with the California compacts, when they are going to be implemented, and what is going to happen.

For example, with licensing, under their compacts, we do not like to interpret that. But yes, we have a long term going on with our field investigators in enforcement to do that. We will be more than happy to supply that to you when it is completed.

Senator CAMPBELL. Thank you, Chairman Deer, and thank you, Mr. Chairman.

Before I yield, may I ask unanimous consent to introduce into the record an article that came out in the Investor's Daily on July 24. It is entitled, "Punishing Success; Feds Should Remove Barriers to Indian Wealth."

I thought it was a very good article, talking about the successes that Indian tribes have had with gaming, and I would like to introduce that into the record.

The CHAIRMAN. Without objection, so ordered.

[Referenced document appears in appendix.]

Senator CAMPBELL. I thank the Chairman, and yield my time.

The CHAIRMAN. Thank you very much.

Now may I call upon Senator McCain.

Senator MCCAIN. Thank you, Mr. Chairman.

Ms. Blackwell, we are aware that the growth of Indian gaming has been accompanied by a growth in applications for Federal recognition of Indian tribes. Would you agree?

Ms. BLACKWELL. Senator, I had an opportunity to look at the applications for recognition. We had provided, I believe, the committee with some of those statistics.

Senator MCCAIN. Have you seen a growth or not, Ms. Blackwell?

Ms. BLACKWELL. Well, yes, there is.

Senator MCCAIN. Thank you very much.

Are you aware of a Wall Street Journal story, and I would like to quote from it, on July 18, it says,

What this currently entails is evident in the controversy over Clinton Administration decisions by then-BIA Director Kevin Gover and Deputy Director Michael Anderson.

The decisions were documented in a Boston Globe expose that was not widely reported.

On his last day in office, Mr. Gover rejected staff findings and granted Federal recognition to the Chinook Indians of Washington State. Mr. Gover personally rewrote the staff's findings, the Globe's reporter, Shawn Murphy, reported, inserting his own conclusions to affirm the tribe's authenticity, while editing out years of work by Government historians, anthropologists, and genealogists.

Mr. Gover stepped aside on January 3, and named Mr. Anderson as Acting Director. Mr. Anderson then recognized the Suquamish of Seattle as a tribe, reversing an earlier Interior Department finding.

On President Clinton's last day in office, Mr. Anderson recognized the Nipmuc of Massachusetts as a tribe, rejecting the findings of Interior Department historians, according to the Globe. Is that accurate?

Ms. BLACKWELL. The information or the facts are that there were positive proposed findings for, I believe, the Nipmuc 69a, and that would have subjected the proposed findings for publication in the Federal Register for an 180-day comment period. It was not a final determination.

For Nipmuck 69b, my recollection is that was a negative determination. Then finally for Duwamish, it was a proposed positive final determination, which would be published in the Federal Register, and subject to a 90-day period for reconsideration.

Senator MCCAIN. Let me ask you then, Mr. Gover rejected the staff's finding, and granted Federal recognition to the Chinook Indians from Washington State; true or false? Did he reject staff's findings and grant Federal recognition to the Chinook Indians of Washington State?

Ms. BLACKWELL. The staff made a recommendation. Mr. Gover did not follow the recommendation.

Senator MCCAIN. Thank you; did he personally rewrite the staff's findings?

Ms. BLACKWELL. I am unaware of that.

Senator MCCAIN. On the Globe's inserting his own conclusions, he did not insert his own conclusions, to affirm the tribe's authenticity, while editing out years of work, by Government historians, anthropologists, and genealogists. You do not know if that is true or false?

Ms. BLACKWELL. I am aware that the Assistant Secretary has the authority to make a determination.

Senator MCCAIN. Are you aware of whether he rewrote and inserted his own conclusions?

Ms. BLACKWELL. I am unaware of any actual rewriting.

Senator MCCAIN. Well, the staff should know, should they not, whether their conclusions and recommendations were rewritten and edited out?

Ms. BLACKWELL. That would be in the file, and I would be more than happy to supply copies of our files to you for the record.

Senator MCCAIN. I would like for you to ask the staff members who wrote the recommendations, as to whether their findings were rejected and rewritten. Can you do that?

Ms. BLACKWELL. I certainly can.

Senator MCCAIN. All right, now did Mr. Anderson reverse an earlier Interior Department finding, by recognizing the Duwamish of Seattle; yes or no?

Ms. BLACKWELL. Mr. Anderson made the positive final determination. I am unaware of the exact facts, and I am very sorry. I am unprepared to respond to acknowledgment issues.

Senator MCCAIN. Are you aware of whether he reversed an earlier Interior Department finding, in recognizing the Duwamish tribe of Seattle?

Ms. BLACKWELL. There was a recommendation that had been made from the staff earlier.

Senator MCCAIN. When you recognized the Nipmuc of Massachusetts, did he reject the findings of Interior Department historians?

Ms. BLACKWELL. Again, there were recommendations made by Interior Department historians. I would be happy to supply those.

Senator MCCAIN. Do you know what those recommendations were?

Ms. BLACKWELL. It is my distinct recollection that they were against the positive finding.

Senator MCCAIN. Do you think this is a little unusual?

Ms. BLACKWELL. It may be unusual. The regulations provide that the Assistant Secretary ultimately is responsible for making these determinations, for reviewing staff work, and for making these determinations.

I think that the comment period is a very strict comment period, in which members of the public, peer review, and others outside the Department of the Interior are given an opportunity to comment.

Senator MCCAIN. Are you aware of previous cases where either the Director or the Acting Director have reversed the recommendations of the staff and historians, and anthropologists and geologists?

Ms. BLACKWELL. I am unaware of any cases that I could cite to the Senator now. I will say that there is extensive discussion among the historians and the anthropologists that are at the BIA before its recommendations are made.

Senator MCCAIN. That is a great answer, but it is not my question.

Ms. BLACKWELL. I am unaware of any cases specifically, right now.

Senator MCCAIN. Thank you very much.

Mr. Deer, the Mohegan leaders gave investors Trading Cove Associates, headed by Saul Kirschner, creator of the Sun City Casino and Resort, 40 percent of gaming revenues, but also exclusive rights to develop and manage a hotel at the casino site.

The deal never got scrutiny from the National Indian Gaming Commission, because of a disputed interpretation of a portion of the regulations. The rights were later bought back from Kirschner trading for a whopping \$430 million. Then there was an additional amount for the development of the hotel, that totalled \$800 million in compensation, that was paid to Mr. Kirschner and Trading Cove Associates.

Is that a normal kind of thing that takes place in these contracts, Mr. Deer?

Mr. DEER. I would say it is not normal.

Senator MCCAIN. Do you think that it might be described as disturbing or even outrageous?

Mr. DEER. You know, Senator, hindsight is a great animal that we have. Today, we might say that. But I was not there at the time, and I have no comment. I think the law was followed, as it is written in the act.

Senator MCCAIN. So you have no comment?

Mr. DEER. That is correct.

Senator MCCAIN. Let me just followup for 1 second.

Mr. DEER. Sure.

Senator MCCAIN. The intent of the law was that a maximum 30 percent, and in some cases, a maximum 40 percent, of revenues would be given to outside sources. Do you think that, at least, is keeping with the spirit of the law?

Mr. DEER. Senator, under 2711(b)(6), there is a section called termination clause.

Senator MCCAIN. I am not asking about the legal part of it, Mr. Deer. I am asking whether you think that this was an appropriate thing to happen or not.

Mr. DEER. Well, you know, tribes also looked this over, too. This is a policy call. If the tribes had very good attorneys there, and I believe they did, and tribes wanted this deal, it then becomes a policy call of the Congress of the United States to decide, at what

point does the trust relationship cease, and the tribes have the right to make their own decisions?

Senator MCCAIN. So then we probably should not have had the 30-percent requirement, according to your logic that you are using right now, Mr. Deer.

You said you voted against the decision on Internet gambling, and you said you wanted to submit it in writing. Maybe you could tell us verbally.

Mr. DEER. Sure, it is not Internet gaming. It is on the definition of a facsimile. It is a question of separation of power from my judicial experience.

I believe if one reads the *Cabazon* case out of this district, and one reads the colloquy between, for example, Senators Inouye and Reid, that the Johnson Act means exactly what it means.

When a judge tells us that is the only definition possible under the act and there is no ambiguity, so Chevron does not apply, then I think it behooves us to leave it alone.

Senator MCCAIN. Ms. Blackwell, we will be submitting additional questions on these decisions. A lot of interesting things happened in the last days of the Clinton administration, and this is one of them. We intend to get some more answers on this issue.

I thank you, Mr. Chairman.

Ms. BLACKWELL. If I may, Senator McCain, the Inspector General of the Department of the Interior is also conducting an investigation.

Senator MCCAIN. Thank you very much, and I thank the witnesses.

The CHAIRMAN. Thank you very much, Senator McCain.

Chairman Deer, there have been many, many articles over the past decade suggesting that organized crime has been deeply involved in Indian gaming. In your experience as Chairman of the Commission, have you found infiltration of Indian gaming by elements of organized crime?

Mr. DEER. As you are aware, we have civil enforcement. If we find something, we turn it over. You have read the report from Justice that says, they have heard of nothing, and I have heard of nothing.

The CHAIRMAN. Yes; I am glad you brought that up, because we invited the Department of Justice to appear this morning to testify, but they declined, stating that they are not fully staffed.

However, they did submit a statement, and I am quoting from that statement.

The department has found no evidence of a systematic infiltration of Indian gaming by elements of organized crime.

Do you find that that conclusion is not farfetched?

Mr. DEER. I do not find it farfetched.

The CHAIRMAN. Ms. Blackwell, if I may follow the questioning of Senator McCain, who has the authority to review and approve these applications, the staff or the Assistant Secretary?

Ms. BLACKWELL. The Assistant Secretary for Indian Affairs has that authority under our regulations.

The CHAIRMAN. Does the law require the Assistant Secretary to abide with the findings of the staff?

Ms. BLACKWELL. I am unaware of any specific requirement that requires the Assistant Secretary to abide by the recommendations of the staff. That would, of course, rob that position of the discretion to make a determination that is lodged in the Assistant Secretary's office.

The CHAIRMAN. The decision made by the Secretary is public, is that not so?

Ms. BLACKWELL. There are a number of steps during the Federal recognition process, which require publication in the Federal Register and an invitation to members of the public and interested parties to opine, to scrutinize the information included in petitions, and, in essence, provide a push back from the community with regard to the very awesome and important decision to acknowledge a group as a federally-recognized tribe.

The CHAIRMAN. Before I proceed with the questioning, I have been advised, Chairman Deer, that you have another engagement that you must attend to. If you must, you are free to go.

Mr. DEER. I believe so, yes.

The CHAIRMAN. Then we thank you very much for your presence here.

Mr. DEER. Thank you, Mr. Chairman.

The CHAIRMAN. Ms. Blackwell, does the Indian Gaming Commission ever submit contracts or agreements that have been submitted to the Commission by tribal governments to the Interior Department for the Secretary's review under section 81?

Ms. BLACKWELL. Yes, Mr. Chairman; it is quite common for the Commission to send agreements to us, after the Commission has determined that the agreements are not management contracts, and thus are termed related gaming agreements, generally.

The CHAIRMAN. Does the department notify the Commission of the disposition or the determination that the department has made?

Ms. BLACKWELL. Not as a formal matter; as was stated earlier before this committee, there is ongoing, informal communication between the BIA and the Office of Gaming Management, and the Commission and their staff. For many years, that has been on a monthly basis. There is no formal report back to the Commission. I believe that Ms. Homer flushed that out a little bit.

As a matter of fact, the BIA, when the gaming-related agreements are submitted to us from the Commission, we scrutinize them, first of all, at the Indian Gaming Office, with the assistance of our attorneys.

Then a determination is made with the regional directors in the 12 regional offices out in Indian country, whether or not with those agreements, it would be more appropriate for the regional director and their staff to do the approval authority under 25 U.S.C. 81.

The CHAIRMAN. Now on the term "encumber," if a contract encumbers Indian land, it must be reviewed by the department. Is that not so?

Ms. BLACKWELL. That is correct under the amendment to 25 U.S.C. 81.

The CHAIRMAN. What is your interpretation of the term "encumber?"

Ms. BLACKWELL. Well, Mr. Chairman, in proposed regulations, we have defined "encumber" to mean a claim, a lien, a charge, a right of entry or liability, to real property. The examples that are given are leasehold mortgages, easements, and other contracts or agreements that, by their terms, could give to a third party exclusive or nearly exclusive proprietary control over tribal land.

The CHAIRMAN. Under that interpretation, as an Indian leader, I could submit a contract to the Interior Department to build a hotel, because it encumbers tribal lands. Is that not so?

Ms. BLACKWELL. That is correct.

The CHAIRMAN. Then I would submit a management contract to the Commission, because I am going to have a gambling operation in that hotel. Is that not so?

Mr. DEER. Correct.

The CHAIRMAN. And if you are not informing each other of your decisions, is it not possible that the fee might exceed 40 percent, because the same manager is handling gaming and hotel?

Mr. DEER. I think, Mr. Chairman, if I could break in, it comes to us first. If we determine that it is a management contract, then it is subject to the 30 percent, or perhaps even as high as 40 percent, et cetera.

If we find that it is not a management contract, and we have no jurisdiction, then it is sent to BIA for their use of the term "encumbered."

The CHAIRMAN. But what about a hotel that they determine is encumbering, but you handle not the hotel portion, but just the gaming portion?

Mr. DEER. If we found it to be a management contract, then we could hold them to IGRA. But if it is not a management contract, there are many things out there, Mr. Chairman, called lease agreements on machines.

There are matters all over the book of what innovative lawyers call these agreements. Many times, they do not fit the category of a management contract.

If we still have problems, if we have questions, we can find out who is really calling the shots here. If it is a consulting agreement, can the tribe automatically turn down whatever the consultant says that they should be doing?

So there are other things that we look at. That is what has happened in the past with JPW and Pan American. We spent a lot of money and a lot of time, but we were able to prove that they were managed without a contract; but that is time intensive.

The CHAIRMAN. So under the process that is being implemented, Indian tribes could be paying much more than they should be?

Mr. DEER. Under the act, yes.

The CHAIRMAN. Do you have any proposal to make that would clarify this, so that Indian nations are not snookered?

Mr. DEER. Well, I would hope that we are becoming more astute, in that the tribes with the good lawyers that they have are looking over these other agreements that are not "management contracts." But there are some loopholes there.

That goes back to the policy issue, Mr. Chairman. At what point do we let tribes conduct their own businesses, and at what point are we the trustee of that business?

You had put in the act the management contract. But there are exceptions to that. I want you to know that we are diligent at my business, at our place, and we look over those matters that say they are simply not a management contract. We have legally gone after at least two, and they resulted in large fines.

Ms. BLACKWELL. Mr. Chairman, if I may, I would just to clarify this.

The CHAIRMAN. Yes.

Ms. BLACKWELL. All agreements are submitted to the Gaming Commission first, and they make the determination. They cull out those that fall under their jurisdiction. If at any time during the process we receive an agreement that we feel may be subject to their jurisdiction, we submit it to them independently, and ask for their review.

Essentially, when we receive the gaming-related contracts and agreements, the transmittal to us makes it clear that those are subject, as determined by the Commission, to our review under residual trustee authority, 25 U.S.C. 81.

I would agree with Mr. Deer that in large part, it depends upon the imagination of attorneys in writing agreements that would escape management contracts, and would also now escape the limitations in 25 U.S.C. 81; that such agreements must encumber the land, and the term must be for more than 7 years.

The CHAIRMAN. It has been noted, Ms. Blackwell, that there have been many, many articles suggesting that groups of people, Indians, have been applying for only one purpose, to carryout a gaming operation.

However, is it not true that there have been many, many applications that have been filed, and still pending applications, before the *Cabazon* decision?

Ms. BLACKWELL. Yes, Mr. Chairman; and thank you for this opportunity to clarify some statistics that my staff has quickly pulled together.

That is, prior to the enactment of IGRA in 1988, we had received letters of intent from 116 Indian groups seeking Federal recognition. Since that time, after the enactment of IGRA, an additional 133 groups applied.

There has been somewhat of a larger number that have letters of intent that we have received, but not an appreciable large number, since the passage of IGRA.

I think it might also be important to point out that Federal recognition as an Indian tribe by the United States does not automatically, in and of itself, give such a tribe a land base, or any kind of land holdings.

The determination as to whether or not land is to be taken in trust for a tribe depends, in part, on this Congress, on legislation that this Congress has passed over time that sets aside land bases when they congressionally recognize tribes, or through our land acquisition program, and the regulations that are set forth in 25 CFR, part 151; nor does, necessarily, acquisition of land or a land base for a newly-recognized tribe imply that they can conduct gaming on those newly-acquired lands. That is a separate third and equally rigorous process.

The CHAIRMAN. Just as a matter of curiosity, of the 116 that had applied before IGRA, how many have been approved?

Ms. BLACKWELL. Prior to the enactment of IGRA in 1988, there were seven tribes that achieved Federal recognition. Post-IGRA, following the enactment of IGRA in 1988, Mr. Chairman, there have been seven tribes that have achieved Federal recognition through our Federal regulatory process.

The CHAIRMAN. So that is seven out of 130-something?

Ms. BLACKWELL. There were 116 letters of intent received before the passage of IGRA. There have been 133 received since the passage of IGRA.

We analyzed some of the jumps. One jump was between 1994, in which there were 9 letters of intent received at that time; and in 1995, in which there were 17 letters of intent received.

Our analysis reveals that that was probably due, in large part, to the White House Conference on Federal Recognition, and then the publication of our guidelines and our revised regulations. So there was more information out there.

The CHAIRMAN. So out of the total 249 applications, you have approved 14?

Ms. BLACKWELL. We have approved 14, pursuant to the department's process.

The CHAIRMAN. So it is not an avalanche?

Ms. BLACKWELL. As I had mentioned earlier before this committee, there has been an increase. I believe that was in response to Senator McCain's question, and indeed, there is an increase. I could not characterize it as an avalanche.

The CHAIRMAN. Are there any further questions?

Mr. Vice Chairman.

Senator CAMPBELL. Thank you, Mr. Chairman.

I note that we will be having a vote in about another 25 minutes, so I will not prolong the questions. But this has been a very interesting discussion, and I appreciate some of your questions of Ms. Blackwell, too.

Some of those applicants, though, have waited 25 or 30 years. Is that not correct?

Ms. BLACKWELL. Mr. Vice Chairman, as this committee knows we have received approximately 256 letters of intent since 1979. In short, there have been a number of applicants that have been pending in excess of 5 years or more.

We do have a GAO report that is due by late August, which examines the process and looks generally at the issues of how Federal recognition is achieved.

Senator CAMPBELL. Well, I will be looking forward to that report. I know there has been an increase, and there is no question in my mind that money has something to do with it.

We are seeing now, in some cases, where groups of people who want to be recognized as tribes because of this detailed process that they have to go through in Interior, they will get a friendly Senator or Congressman to introduce a bill for legislative relief and try and do an end run around the whole thing, which I do not support.

But I know we have dealt with that a couple of times. I mentioned one hearing that I sat in on some years ago, when one group

was applying and had a bill introduced to recognize them as a tribe.

I remember asking them some questions about things that anybody that is close to their own culture would know. I asked them about their stories of creation, as they are called. They said they did not know that. They did not have that.

I asked them about their traditional tribal dress, and they did not know that. I asked them about their songs and their dance and their art styles, and they did not know that.

After about 10 questions in which they said they did not know any of that, I asked them, well, what do you have that makes you a tribe? They said "we have got a corporation." I did not think that qualified, but that was it. [Laughter.]

That did not get through, by the way. That was a long time ago, and I will not mention who it was.

But there is no doubt about it, you know, in Indian country, you probably know that there is kind of a joke that years and years ago, it was not nearly so in vogue to be Indian. I think there has been much more interest, now that there is a possibility of getting per capita if you can get on a roll or getting recognized.

But the joke, of course, was in the old days, even when the Indian kids played cowboys and Indians, they all wanted to be the cowboys. Nobody wanted to be the Indians. [Laughter.]

Well, it is certainly changing, and I think to the good, in some respects. But I really am almost gun-shy about groups that want recognition, when behind the scenes, you know that some of them, and certainly not all, are cutting deals to get a casino, and they are going to enter all these agreements.

I know in my own case in my own hometown, where I was born and raised in Auburn, CA, I knew many of the Indian people who lived there, the Mountain Mowoks and the Pomos. They lost their Federal recognition in the 1950's, during the Termination Acts.

Ms. BLACKWELL. Yes.

Senator CAMPBELL. They came back to see me about getting some help with being reinstated. I knew them when I was in high school, some of these very same people that came to talk to me.

I said, do you want to be re-recognized so you can get a casino? They said no. It is just cultural identity.

This kind of interests me, because certainly in the Chairman's ancestry, or in a Black American's ancestry and so on, we do not expect the Government to give us each a number in those minorities: Hispanic American, Black American, Japanese American, or whoever. We do not expect the Federal Government to identify each one of us and give us a number to keep track of us.

Years ago, there was some resentment in some circles in Indian country about being identified and kept track of, too, as you know.

Ms. BLACKWELL. That is right.

Senator CAMPBELL. I have one last comment. As a policy matter when we talk about whether tribes should be able to negotiate their own deals or not, I am inclined to think they ought to, even if they negotiate a bad deal.

I mean, we all do that. In a free enterprise system, it comes with the territory. You have got to read the legal contracts. If you can-

not, you have got to get somebody that will read them for you. You have to be able to live up to the parameters of those contracts.

If you, as a tribe, knowingly sign an agreement, where somebody is going to get 40 percent out of the deal, then I would say, you may have made a mistake. But if that is what you want and that is your mistake as a tribe, then you ought to go with it.

We should not try to oversee it and tell them, well, you poor innocent people, you made a bad deal, and we are going to try and bail you out now. That is part of the learning process, but that seems to me that is what real sovereignty and self-determination is all about.

Well, I have no further questions, Mr. Chairman, but I look forward to the next panel.

The CHAIRMAN. Thank you very much.

Because of the complexity of the matter under discussion, may we submit questions to you for your response?

Mr. DEER. You certainly may.

Ms. BLACKWELL. Absolutely, yes.

The CHAIRMAN. It has been a long morning for you, Mr. Chairman, and Ms. Blackwell. Thank you very, very much.

Mr. DEER. Thank you.

Ms. BLACKWELL. Thank you.

The CHAIRMAN. Our next panel consists of the following people: Ernie Stevens, Jr., chairman of the National Indian Gaming Association, accompanied by Mark Van Norman, the executive director of the National Indian Gaming Association; Keller George, president, United South and Eastern Tribes of Nashville; Daniel J. Tucker, chairman, California Nations Indian Gaming Association of Sacramento; David LaSarte, executive director, Arizona Indian Gaming Association of Phoenix; and Tracy Burris, executive director, Oklahoma Indian Gaming Commission, Norman, OK.

Gentlemen, I welcome you. I know you have been waiting a long time. I will be sitting here to listen to all of your testimony, but we may be interrupted by votes.

So may I now call upon the chairman of the Indian Gaming Association, Mr. Stevens.

STATEMENT OF ERNIE STEVENS, JR., CHAIRMAN, NATIONAL INDIAN GAMING ASSOCIATION, ACCOMPANIED BY MARK VAN NORMAN, EXECUTIVE DIRECTOR

Mr. STEVENS. Good morning, Mr. Chairman, it is an honor to be here before you. I will try to summarize my comments as best I can. Obviously, our full testimony is available and has been submitted.

The CHAIRMAN. All of your complete statements will be made part of the record.

Mr. STEVENS. Good morning, Mr. Chairman and Vice Chairman Campbell. As the chairman of the National Indian Gaming Association, it is my honor to be here before you. I thank you for the opportunity. Joining me today is Mark Van Norman, our executive director.

The National Indian Gaming Association is a non-profit association of 168 Indian tribes dedicated to preserving the tribal sov-

ereignty and inherent right of tribal governments to operate gaming enterprises to raise governmental revenue.

Thank you for this opportunity to testify once again, Mr. Chairman. This morning I will touch on four points: The benefits of tribal governmental gaming; tribal regulatory systems; the NIGC and its regulations; and some concerns that NIGA member tribes have with IGRA.

Regarding the benefits of tribal gaming, the United States has consistently recognized that Indian tribes are sovereigns with governmental authority over their members and their territories. Through IGRA, Congress sought to promote tribal economic development and recognize that Indian tribes have the inherent authority to engage in gaming for governmental purposes.

The results achieved by Indian tribes through gaming have been amazing. Indian gaming provides jobs and economic development for Indian tribes and their non-Indian neighbors. Indian gaming has been an important source of employment and economic development for Indian tribes, generating 250,000 jobs nationwide.

In Wisconsin and other areas, Indian gaming has proven to be the best welfare-to-work program. In some cases, welfare-to-work has put some people in situations where they go to work, but cannot pay for their child care and related bills. Indian gaming provides good pay, good benefits, and in some cases, even child care, for all of our employees, Indian and non-Indian, alike.

Indian tribes use gaming revenue to build schools, health clinics, water systems, and roads; and to fund education, health care, child care, and elder services.

The Oneida Nation is particularly proud of our Turtle School, an elementary school where our Indian youth go to school. They learn their language and learn a good quality education in a brand new, state-of-the-art school. We are very excited about that, and we are also very proud of the services offered to our elders.

In addition, gaming has provided tribal governments with the capital necessary to develop new enterprises. More recently, we worked with the National Indian Business Leaders, small business vendors in Indian country, and are currently working to try to promote their efforts out there in Indian country.

Tribal gaming benefits neighboring communities with jobs for State residents, and revenue for State and local governments through payroll and other taxes.

NIGA recently did a study of charitable giving, and found that Indian tribes gave \$68 million to charity, including donations on off-reservation hospitals, schools, law enforcement vehicles, and other local needs.

Many Indian tribes use gaming revenue to help other tribes. For example, the Forest County Potawatomi Tribe assists the Red Cliff Band and the Sakaogon Band of Chippewa on an ongoing basis, and funds a Milwaukee Indian school for the benefit of all Indians in Milwaukee.

I have asked to submit this for the record. It is a pictorial tour that I did with the Potawatomi casino, throughout their casino and one quadrant of the community which they support.

It is a community where I grew up in, and a lot of poverty, crime, and violence exists. They funded several organizations, and this is just one of four quadrants that they support in Milwaukee.

It is an outstanding note of what the Indian gaming is doing to help enhance the services and the safety in the city of Milwaukee.

Of course, we know that tribes have a lot of work to do. Tribes continue to have serious unmet needs, and many of our people live in poverty, and face diabetes and heart and liver disease.

We know we still have a long ways to go to catchup with the rest of America, and it is our commitment to continue those efforts.

On tribal regulatory systems, I would like to point out that Indian gaming is the most highly regulated form of gaming in the Nation. It is subject to the regulation of three jurisdictions: Tribal, Federal, and State.

Tribes regulate their own gaming through tribal gaming commissions and tribal justice systems. States regulate tribal gaming at a level negotiated through tribal State compacts. The Federal Government regulates tribal gaming on several levels. The NIGC is main regulator at the Federal level.

In addition, the Department of Justice, through the FBI; the Interior, through the BIA; and the Treasury, through the IRS and FINISIN, all have a role in regulating tribal gaming.

Under IGRA, tribes serve as the primary regulators of Indian gaming, and over the past decade, tribes have developed world-class regulatory systems.

In addition, we are very proud that we have an outstanding check and balance system within our tribes. I can only speak of one tribe in this brief time that I have to speak to you. Obviously, my tribe, the Oneida in Wisconsin, has an audit committee. They have an internal audit that oversees the entire tribe, and then they have internal auditors within the gaming operation.

In addition to that, they have the Gaming Commission. They have their own investigators. We have tribal police who also have their own investigators.

In addition, to expand from that, we have associations, regional, local, and State associations, that tribes, working together, have helped do a lot of service in helping to regulate our casinos and fight crime in Indian Country. I think they have done a really good job, and we are very proud of them.

The tribes realize that good regulation is the cost of a successful gaming operation. We have made regulation a priority, and we can demonstrate that.

In 1998, a NIGA survey indicated that 147 tribes spent over \$127 million on tribal regulation in Indian gaming. Based on NIGA's current survey, we estimate that this year, the tribes will spend \$150 million to regulate Indian gaming operations. In addition, we estimate that tribes will pay over \$30 million for State regulation of their operations.

Against the backdrop of comprehensive regulation, the Justice Department has repeatedly reported that there has been no infiltration of organized crime on Indian gaming. A national gambling impact study commission confirmed this finding.

As I stated above, the NIGC is the main Federal regulator of Indian gaming. The Commission's \$8 million budget is funded en-

tirely by tribal governments. Over the past 3 years, NIGC's personnel increased over 200 percent. With 77 employees and 5 field offices, the National Indian Gaming Commission is fully equipped to provide a secondary level of oversight to Indian gaming.

Regarding their proposed environmental health and safety regulations, in our view, the NIGC should stay close to its core mission of regulating Indian gaming. However, the Commission's proposed environment, public health, and safety regulations go beyond its core mission.

We already work with the EPA on environment issues. We have our own building codes, and we work with our own fire departments, or work with local departments, to address safety issues. We do not need another layer of Federal bureaucracy in this area.

On the proposed definition changes, in its initial definition regulations, the NIGC wrongly defined the term "facsimile" as any gambling device, as defined under the Johnson Act. The NIGC recently decided to remove that reference to the Johnson Act. We ask you to support the NIGC's efforts to correct its earlier mistake.

On the concerns with IGRA, the Indian Gaming Regulatory Act has generally worked for Indian tribes. However, the Supreme Court decision in the *Seminole* case severely tipped the balance of the compacting process in favor of the States. This leaves the tribes with the right to good faith negotiations, but no way of enforcing that right.

In 1999, the Secretary of the Interior enacted regulations that permit tribes to request alternative class gaming procedures. We ask this committee to support and ratify these regulations, which restore the balance between tribes and the States that IGRA envisioned. The committee never intended the States to have a veto power over the compacting process.

I would like to say a few words about the Federal acknowledgment process. Recent reports wrongly characterize the process as a gaming issue. It is not.

Many of the tribes that have petitioned for recognition did so 10 years before the enactment of IGRA. Most of the tribes that have been recognized since 1988 do not engage in gaming.

I struggle, Mr. Chairman, with my emotions, when we talk about the Indian people, that have survived the attempts to eliminate the genocide against my people, and try to make that a gaming issue.

We know and we have been able to highlight where there are serious difficulties for people trying to get recognition, and we know who Indian people are.

We talk about the Duwamish and Chief Seattle. He said this is where we come from, the land, from our Mother Earth, and the city of Seattle is named after him. So I really struggle with that. I do not want to cloud my testimony, but I think if they are Indian people, we will know who they are, and they know how to explain who they are.

I also know there are so many things like those tribal songs, tribal regalia, their traditional customs. That was all part of the genocide which was taken from them. In more contemporary times, we have tried really hard to regain those.

So that is always a struggle, and we appreciate that, Mr. Vice Chairman, that scrutiny; because the last thing we want is people

who are not Indian to be recognized. At the same time, we want to recognize Indian people that fought back through so much genocide, to stand up as who they are, as Native people from this land.

In conclusion, Mr. Chairman and Mr. Vice Chairman, I just wanted to say that. I apologize, but it is a very emotional thing for me and my people.

Regarding the Wolfe/Shays bill, you know, we are a little bit disturbed about that. We are prepared to step up to the plate and answer all those questions again, if we have to.

We believe the Impact Study Commission has done that. We believe our brother and sister tribes out there have done that. We will do it again if we have to, but we have a lot of important things on our plate, and we would like to work on those.

So in conclusion, I believe tribal gaming is fully regulated, and it is working to benefit both the tribal governments and the surrounding communities.

I would like to thank you at this time for allowing me to testify. I appreciate it very much. As I said, we have submitted our testimony, and we are definitely here to answer any questions that you may have, Mr. Chairman.

[Prepared statement of Mr. Stevens appears in appendix.]

The CHAIRMAN. Mr. Chairman, I thank you very much for your statement. I can only say that if a people cannot be described with emotion and passion and pride, those people will disappear.

Now may I call upon President George of the United South and Eastern Tribes.

STATEMENT OF KELLER GEORGE, PRESIDENT, UNITED SOUTH AND EASTERN TRIBES

Mr. GEORGE. Mr. Chairman, I appreciate the opportunity of being able to come here and give testimony before this committee again. I have submitted quite a large written testimony, trying to cover all the issues that all of the tribes within USET have to deal with.

We have 24 federally-recognized tribes in our organization. We come from Maine all the way to Florida, as far west as Texas, comprising 12 States.

Some tribes are large, some tribes are small, and some tribes are in the middle. So we have various different degrees of success in our gaming operations.

Within the Eastern Region, we have probably two of the most successful tribes, the Mashantucket Pequot and the Mohegan Tribe in Connecticut.

USET has played an integral role in these tribes and things that have been going on in the States that we have our tribes reside in. In USET, we have nine tribes that are in class III gaming. We have six tribes that conduct class II gaming.

For example, the Penobscots in Maine conduct a bingo operation, but only on weekends, on like Friday or Saturday nights. So there is not a large amount of revenue that is generated from that gaming operation.

The Miccosukee and the Seminole in Florida conduct class II gaming, because they have not been able to get a compact. We all

know of the Supreme Court decision in the *Seminole* case. Also, the Poarch Band of Creeks in Alabama come under that same category.

However, we do have tribes in the State of Louisiana, for example, where we have three tribes that have gaming operations. One tribe that has been recognized, the Guna Band of Choctaws, has been denied getting into class III gaming, basically because the Governor will not sit down at the table and negotiate with them, because of the *Seminole* decision, where the tribes can no longer take the States to Federal Court.

We have the same thing in Massachusetts. They did manage to get a compact negotiated. The Governor was willing to sign it, but the legislature stepped in and said they had to approve it, and they chose not to approve it.

With the Narragansett Tribe in the State of Rhode Island, they had been prohibited on a rider that was introduced in the Senate on an Appropriations bill that prohibited the Narragansetts from going into gaming.

All of their attempts to get into gaming have been thwarted, and there are numerous other tribes that would like to get into gaming, but because of the situations there, and the ruling on their territories in Maine, it is just not feasible for them to do that.

However, in the USET area, there have been a lot of benefits of gaming for the nine tribes that have class III gaming operations. They vary in size, again, the Mashantucket Pequot, and the Mohegan being the largest; and some of the smaller operations such as Chitimacha, Tunica-Biloxi, and Oneida. We have been very successful in some of those operations that we have had.

I would point out that as far as IGRA, in our opinion in the East, the Indian Gaming Regulatory Act is working. Sometimes, it may be not as fast as we would like it to, but the reason for the act was to promote tribal economic development, tribal self-sufficiency, and strong tribal governments. We believe that act is doing that.

One of the former Assistant Secretaries recently called gaming, "The only Federal Indian economic initiative that ever worked," and we believe that is correct.

Prior to the advent of Indian gaming, many Indian Nations, while legally recognized as sovereign governments, they were not able to provide basic governmental services to their people. They had all the legal attributes of sovereign nations, but did not have the practical ability to be an effective government for their members.

At the Oneida Indian Nation, our children were facing a future consisting of food stamps, minimum wage, broken down trailer homes, and our once expansive homelands in Central New York were reduced over the years from 6 million acres to 32 acres.

The Mississippi Band of Choctaws also, before their economic development, were considered one of the poorest of the poor tribes, when unemployment was over 80 percent.

Tribal gaming, for many, has reversed a cycle of poverty. But I would like to point out at this time, the Oneida Nation has been successful, but those 8 years of success do not outweigh over 200 years of poverty that we have endured.

So that is one of the things that we would like to point out, because most of the tribes now that have been successful in gaming

for over 200 years, existed in poverty and alcoholism and all of that.

Even with all of the success that we have had over the years, Indian people are still not on the level as others in this great country that we call America, because of diabetes, alcoholism, child abuse, spousal abuse, and all of those things that are things that we need to work on. That is where the revenues that have been generated for gaming are going, to the most part.

My nation does not issue or does not give per capita payments from gaming revenues. We have decided to do it in other ways, by providing full scholarships to our Indian people to go to any university or school that they would like to go to; by initiating a health care insurance policy for each and every member.

No matter where they live, on the reservation, or if it is in California or Washington, DC or wherever they are, they are given that ability to access this insurance policy that covers them on health care.

In Oneida, we have over 3,000 employees, of which 86 percent are non-American Indian. Proceeds of gaming go directly to providing governmental services. We have our own home ownership programs. We do not use HUD anymore. We have affordable housing. As I mentioned, we have the health care insurance program.

We have our own police force, that is one of the few police forces in the entire country that has Colea certification. There are not that many police forces, Indian or non-Indian, that have that.

We have our own legal department and our tribal court system. We have a very active language and cultural retention program. We have even extended our language program this year to include house visits. For whatever reason, if the family members cannot attend the sessions in the evening or during the day, we now go to the homes and attempt to teach the language of the Oneidas.

Now we are having more of our youngsters, in particular, that are communicating in our Native language, that somehow almost died out. It is coming back strong, and we believe that the money that has been used is a good thing.

The Mashantucket Pequot Nation has built one of the best state-of-the-art museums and research centers in the country, along with the Cherokees in North Carolina, that have revamped their museum in Cherokee, NC, to tell the story of their tribe. It teaches some of the culture of the Cherokees.

The Choctaws have built a health care, hospital, boarding high school. They have law enforcement and tribal courts, and they also just unveiled the state-of-the-art fire protection where they do mutual aid to the counties around them; because I think there are eight different distinct communities that comprise eight different counties, that their checkboarded reservation involves. So they provide fire protection, not only to the reservations, but to the local communities around them, with mutual aid agreements.

Mr. Chairman, we talk a lot about economic development.

The CHAIRMAN. Mr. President, I will have to leave to vote. So can we resume this upon my return?

Mr. GEORGE. Yes, sir.

The CHAIRMAN. We will stand in recess for 10 minutes.

[Recess.]

The CHAIRMAN. The hearing will please come to order.

May we now resume our hearing. President George, you were not quite finished yet.

Mr. GEORGE. Thank you, Senator.

I would like to get into how some of the local economies benefit from Indian gaming. At Turning Stone Casino Resort, payroll exceeds \$63 million. Payments to vendors exceeded \$123 million. Capital expenditures are about \$20 million. This is over the 8-year period that we have been open, since 1993.

We have a economic development report that is done by Zogby International, who is a renowned pollster that does a lot of political reporting.

We have that available that I would like to enter into the record. Also, we have an economic development report that has been done for the Mississippi Band of Choctaws. This is done by the Southern Mississippi School. We would also like to include this in the record.

The CHAIRMAN. It will be received.

Mr. GEORGE. Thank you.

[Referenced documents appears in appendix.]

Mr. GEORGE. The Oneida Nation has over 3,000 employees. About 86 percent of those people that we employ are non-Natives in our casino, because we are a small nation, and we do not have the labor force that we need. Therefore, 86 percent of our employees are non-Native.

Also, the Mohegan Tribe, for example, has approximately 8,500 employees, or will reach that figure in a couple of months, when their expansion hits full gear.

As Senator Campbell points out, the Oneida Nation spends \$8.8 million in regulation every year. That is only one casino. I know there was an article that I read that Nevada spends about \$80 million.

But if you will take into consideration that in the Eastern Region of the nine casinos, we spend in excess, conservatively, \$50 million a year in regulation of the nine casinos in our Eastern Region.

I do not know about the other areas, but I do know about the Eastern Region. I have been a gaming commissioner and chairman of our Gaming Commission for 8 years. Prior to that, I was in the area of learning how to be a gaming commissioner, and studying the issues. I also was on the Negotiating Committee that negotiated our Nation's State compact for my tribe.

Also, I would like to point out, at Choctaw, they have 2,243 Indian employees, and they have 3,570 non-Indian employees, which gives them a total of 5,822 employees. At the end of 2002, when their new Pearl River Casino Resort is finished, that will probably double.

So Indian gaming has been beneficial to not only the tribes, but the surrounding communities. In our area, in 1993, when we were going to open our casino, Griffith Air Force Base closed. That meant there was a loss of over 4,000 jobs. We stepped in and provided jobs for some with that kind of help with that job crunch of losing that many jobs at one time.

Also, we have provided moneys for the local governments around us and the schools around us. For example, we have given over \$7

million to build a water and sewer line, and turned it over to the town of Verona for administrating.

We gave them \$350,000 for a new town hall, and also over \$2 million in grants to education. This is where we give money to the local schools, not to the counties, but to the local school boards, to use in whatever way that we see fit.

In Cheryl, they have used that money to buy computers. Another school district has put on teachers in special education for those children that need that extra help. We do not put any strings on it. They can use those moneys for whatever projects that they want to use them for. In our mind, Indian gaming is a win/win situation for tribes and our neighbors.

There is a lot of talk also about regulation. You know, I have been President of USET for going on eight years now, and over 8 years, as I mentioned, as a gaming commissioner. I think I know a little bit about the regulations that we have to go through.

Under my gaming commission, we have a staff in the Internal Audit Division of six people that audit internal controls. We, by law, have to submit a audit of the entire operation to the NIGC annually. So, yes, we are providing those audits on a timely basis, and that is what a large portion of those moneys that we spend go to.

We support strict regulations because when we negotiated our compact, and we welcomed that. We have the New York State Racing and Wagering Board, which is the entity that co-regulates on our reservation all of the tenants of the compact, to make sure that we are not in violation, and we welcome that.

Also, the New York State Police Department does all of the background checks, and we have to pay them for all of this. So part of that \$8.8 million in regulation is because we have to reimburse the State. Last year, it was \$3.5 million that we reimbursed the State for their part in the regulation of the casino.

So we feel like we have been doing a really good job on regulation. We also have, in our compact, the criteria that any non-gaming vendor that comes in, if it is the trash haulers or whatever their job is, that if they do \$50,000 or more business with us in a calendar year, we do a background check on those companies, to make sure there is no organized crime element coming into the casino.

With all of the vendors that provide gaming-related services, we do what we call GER, gaming registrants for those companies. We do a strict background check on the principles of those companies, no matter which company it is; if it is Polsom or any of the vendors that we use for gaming-related items and supplying gaming-related materials for us or services. That is in our compact that we negotiated.

So in that area of regulation, this is the compact and the gaming regulations that we use. It is quite a thick document. So there are a lot of things that are very specific that we have to do.

I would also like to submit this to the committee as an attachment for what our regulation is about. This document right here spells out, from A to Z, what the regulation is, including the rules of the game, all of the appendices that we have to be in compliance with.

The CHAIRMAN. That will be received for the file.

[Referenced document appears in appendix.]

Mr. GEORGE. Thank you.

Some of the benefits of Indian gaming, as I mentioned one time before, are that we do not give per capita payments, but do it in other services for our tribal members: Education, scholarship money, health insurance, social services, natural resources, police, fire protection. All of these, we do with our own dollars.

We are in the third year now of moneys that we have, the TPA, the Tribal Protection Allocation moneys, that were getting from the BIA. We turn that back each year to the BIA to be used in the Eastern Region of some of those tribes that may not be doing as well as we are.

To date, that totals approximately \$5 million that we have turned back to the BIA, and have been redistributed among the 23 other tribes, paying more attention to some of the tribes that need that help that do not have any type of economic development. So we are very proud of the fact that we have been able to do that.

In conclusion, Mr. Chairman, I would just like to say that we have really appreciate the opportunity to come before you. One of the sessions that I would like to just say a little bit about, that we went into detail in our written testimony, was about the recognition process.

USET is on record saying that we believe that the process should stay within the BIA and the Assistant Secretary for this particular reason because the criteria that they used, and I know people have mentioned this before, is that the only reason the tribes are petitioning for recognition is because of gaming.

But I must point out, Mr. Chairman, that gaming is not one of the criteria that the BIA uses under their bar process for recognition of Indian tribes. In the Eastern Region, there has only been one tribe that was recognized after 1988, that is in gaming.

So although we do know that is the motivation of some tribes that have petitioned for it, we feel that the process is working. It may need a little tweaking and revising, to make it not as lengthy, because as was noted earlier, there are petitions that have been presented to the BIA for recognition for over 30 years that still have not been dealt with.

So that is the reason why we think it is in the best interests to keep it at the BIA and under the Assistant Secretary, and just refine it so that it will be easier to tribes to access.

But I still think, as Vice Chairman Campbell has pointed out, that some of the criteria used is the songs, the culture, the language, and all of these types of things. They are very important to us, as Indian people.

Because of the dollars that we have been able to generate through gaming, as I mentioned, it has enabled us to build a big cultural center. Now we have displays where the outside communities come in, and in agreement with the school systems, we now have materials that we can easily give to the teachers.

This was the biggest problem that they had, because the research materials that they need to teach about the Iroquois Confederacy were very hard to get. But now we are putting together those types of things that can be used in the school systems.

By New York State law, for 2 weeks, they have to teach about the Iroquois Confederacy in the New York school system. So now we are able to get some of those material available to the teachers that are teaching those.

Keeping all of what we have talked about in context, while Indian gaming has worked for many tribes, it has not solved all of our problems; far from it. According to the U.S. Census Bureau, American Indians are still nearly 2½ times as likely to be living below the poverty line as the rest of the U.S. population.

Infant mortality rates, alcoholism, and diabetes are proportionately higher among Native Americans than other groups. Unemployment on Indian reservations is four times the national average.

So, yes, Indian gaming has been very successful for some of us, but we still have got a long way to go. As I said earlier, the few years of success do not outnumber the 200 years of poverty that we have been suffering through.

Thank you, Mr. Chairman, and we will be glad to answer any questions.

[Prepared statement of Mr. George appears in appendix.]

The CHAIRMAN. Thank you, President George.

Now may I call upon Chairman Tucker.

STATEMENT OF DANIEL J. TUCKER, CHAIRMAN, CALIFORNIA NATIONS INDIAN GAMING ASSOCIATION

Mr. TUCKER. Good morning Mr. Chairman and Mr. Vice Chairman. It is an honor for me to be here. I really enjoy being here and talking with you.

My name is Daniel Tucker. I am the chairman of the California Nations Indian Gaming Association out of Sacramento, CA. There are 109 federally-recognized tribes in California; 76 of those tribes are members of the California Nation's Indian Gaming Association.

Although we have been very successful in a lot of tribes in the gaming process out there, there are still some who have not been successful. But on the other hand, our success has not been without its detractors, however.

Try as we might, through organizations like California. NIGA, to get the facts before the public, false impressions continue to be spread about the ability of tribal governments to regulate gaming.

Millions of dollars that could be used for basic tribal needs are put right back into regulations, because we recognize it is important. It is sad, then, that after all these years, all the significant legislation, every regulatory development, and millions of dollars expended for regulatory costs, that we still hear reports that paint a landscape that is generally uninformed and misleading about our ability to regulate gaming on our lands.

But we will persist in our efforts to correct those misimpressions and, therefore, welcome the opportunity do so today in this hearing. I believe that under the existing system, under IGRA, regulation of tribal government gaming has been very effective.

With respect to the gaming operations themselves, the NIGC has enacted extensive regulations setting minimum internal control standards, which tribal gaming projects must meet or exceed.

In addition, tribes must also abide by titles 12 and 31 of the United States Code, which govern specific procedures and reporting requirements for cash transactions.

Among the results of this commitment to regulation and compliance, the Justice Department has testified before this committee on many occasions about the virtual absence of organized crime in tribal gaming operations.

Concerning regulation of the California compacts, this is very important, Senator. Sixty-one California tribes have entered into virtually identical compacts with the State of California.

I would note that earlier it was testified that there are 39 tribes before Proposition 1(A) that were in gaming, and we talked about the explosion in gaming in California. But there were only five other tribes after proposition 5 has been passed, which means there are 44 tribes that have gaming right now.

There are 61 with compacts, but yet those tribes have not gone into gaming, as of yet. You know, we said we have the revenue sharing process, which I will be bringing out further in my report here.

To facilitate that process, California tribal governments are required to maintain independent tribal gaming agencies or tribal gaming commissions at the first line of regulations. The new compacts provide for a more explicit process for licensing and performing background checks that are set out in Federal law.

Our new compacts flush out construction, environmental, health, safety, and other issues related to the facility. Our compact also details requirements for lenders, investors, and gaming suppliers.

Compliance with procedures and laws that minimize opportunities for fraud, theft, skimming, or money laundering are a must.

The compacts provide specific requirements for tribal gaming regulators, including who can serve, freedom from conflicts of interest, and require prompt removal of any member violating those rules.

The compacts also provide for the meaningful participation by State regulators in the regulation of tribal governmental gaming, including State inspections and auditing rights, as well as a process for State review; as suitability certifications for critical employees and others associated with the gaming projects.

The State has the use of both the State Attorney General's Office, through the Division of Gambling Control, for investigative and enforcement purposes, and the independent Gaming Control Commission for appeals and policy matters.

Unfortunately, the division of authority and the actual practice between those two State agencies still seem somewhat blurred. They have been charged with uncertainty about whether there will be duplicative and, therefore, inefficient and cumbersome regulation by the State.

Tribes, therefore, have been addressing that issue in various ways, including appearing at hearings before the State legislature, holding meetings with the State officials, and seeking dialog through the compact's own mechanisms.

The tribes' dedication to regulation is not in doubt. As already noted, tribes spend millions of dollars a year on regulating their op-

erations, and contemplate regulatory participation by the State and Federal Government.

The tribal/State association is a unique element of the California compact. Further demonstrating the focus that tribes have placed on regulation is the compact's creation of a tribal/State association.

The association is made up two representatives from each California compact tribe's Gaming Commission, and two delegates each from the State's Division of Gambling Control and Gambling Control Commission.

State regulations in respect to tribal gaming operations are subject to a review and approval process through the association that that body offers an ongoing opportunity for dialog between the State and tribal regulators. It has been meeting regularly since the compacts went into effect.

This is important; the tribal revenue sharing and sharing with other tribes. This is based on tribes not going into gaming, per se, because we do not want them to, because of the expansion of gaming in California, the explosion that was testified to earlier.

This kind of confuses me, because most tribes, or about 80 percent of the tribes, will gain revenue sharing from the tribes will have gaming, and will get those funds, whether they go in gaming or not, under the compact. So those tribes who do not get into gaming are still getting the benefits from the tribes that do. This is a first for this process in this country.

A stark feature of the California compacts are the provisions for sharing gaming revenues with tribes that are either not in gaming or have limited operations.

Under the compacts, revenue sharing provisions, fees for licenses to operate slot machines in excess of the base allowance under the compact, are paid to the State in trust for the tribes eligible to share in that fund. To date, more than \$40 million has been set aside for distribution to non-gaming tribes, or those with limited operations that qualify to share in the fund.

With me, I have a report from the California Gaming Control Commission. This is from the supplemental distribution of funds from the Indian gaming revenue sharing trust fund. In the May 9 report, it said that there are only 68 tribes who are eligible for profit sharing.

They came back with a supplemental report, and I would like to put this in the record, that now there are 84 tribes that are eligible for the profit sharing in California. Another note is that the tribes in California who have facilities, who can handle the machines that they have, are only allowed up to 2,000 machines.

There are only a handful of tribes who have that right now. Because some of the tribes are so far out, they maybe have 500 or maybe 700 machines at the most, because the market allows it to be that.

So it is a market driven policy, and the people who can afford the 2,000 will do so. Those who cannot, will not have 2,000 machines. So we are limited. We have a peak right there, but we cannot go any further than 2,000 machines at this time.

The situation in California, whether you have 2,000 machines or 500 machines, we still turn our audits into the NIGC every year. It may be a little more expensive for us to do, but we cannot see

why it would be more expensive for the NIGC, needing more people, because the audits are the same, but the numbers are just bigger. Yes, the numbers are bigger, and I am not going to deny that. The numbers are bigger, but the work is still the same.

On sharing with the local communities, the California tribes enter into numerous agreements with local governments to lessen the off-reservation impacts of gaming operations. These efforts have included strengthening tribes' own services, to extend them to local communities.

Additionally, tribes have helped with funding fire engines, squad cars, extra law enforcement personnel, installing traffic lights, contributing to air quality enforcement resources, providing support for mental health and gambling addiction programs, and meeting the other needs of local governments and communities directly. Added to that has been a tradition of making substantial charitable contributions, totalling in the millions each year.

In conclusion, I hope that by our testimony, we have demonstrated the priority that we give to gaming regulation and sharing the benefits of tribal government gaming. Indian tribes are effective regulators, successful operators, and are making historic strides as governments.

On behalf of the California Nations Indian Gaming Association and California tribes, we thank you for this opportunity to testify today.

If there are any questions, I would really love to answer those for you. I have also our executive director from Cal. NIGA, Jacob Drine, here to help answer those questions, if allowed. Thank you. [Prepared statement of Mr. Tucker appears in appendix.]

The CHAIRMAN. Thank you very much, Chairman Tucker. Now may I call upon Mr. LaSarte.

**STATEMENT OF DAVID LASARTE, EXECUTIVE DIRECTOR,
ARIZONA INDIAN GAMING ASSOCIATION**

Mr. LASARTE. Mr. Chairman, Mr. Vice Chairman, my name is David LaSarte, and I am an enrolled member of the Couer d'Alene Tribe of Northern Idaho. But I am here today as the executive director of the Arizona Indian Gaming Association, representing 17 sovereign tribal governments. On their behalf, I thank you for the opportunity to speak today.

In the interest of time, I am only going to highlight certain sections of my written testimony, in order to provide you with a brief snapshot of Indian gaming in Arizona, as it exists today.

In Arizona, as elsewhere, tribal governments have historically not had any significant source of governmental revenue that they need to provide services for their people.

However, since the Indian Gaming Regulatory Act was put into place, tribal gaming in Arizona has provided a critical revenue stream for tribal governments to provide essential services to their people, as well as develop their infrastructure and jump start their economies.

When we speak about essential services to their people, we are talking about things that most Americans take for granted. We are taking about things like paved roads, electricity, running water, in-

door plumbing, police and fire protection, medical clinics, and adequate schools.

While the level of unmet need in tribal communities in Arizona, as well as the rest of the country, continues to be staggering, gaming has allowed some tribes to make great strides in addressing these problems.

In South Arizona, the Tohono O'odham Nation lies along the Mexican border. It has responsibility for 2.86 million acres of reservation land, and it has responsibility for 24,000 enrolled tribal members. Its gaming operation currently provides 50 percent of its total governmental revenues for tribal operations.

Tribal departments of fire safety, health care, economic development, and education are all 100 percent funded by gaming revenues.

The tribal fire department now employs 37 employees, 16 fire trucks, and four substations that serve the reservation. For health care, there is a new medical clinic to serve the rural western part of the reservation. There is a new on-reservation 60 bed nursing home, so that tribal elders can spend their golden years in their own communities, and there is a new kidney dialysis center.

For economic development, there has been \$15 million in small business grants made to over 150 recipients. In education, the tribes have given over \$24 million in scholarships, and it has also started the Tohono O'odham Community College, so that tribal members can achieve their educational goals in their own community.

In addition, gaming provides two-thirds of the budget for the Tohono O'odham police department, which employs 213 employees. That police department in the year 2000 intercepted 13 tons of illegal drugs and 20,000 undocumented aliens crossing the U.S./Mexican border. It provided benefits not just to the tribe, but to the State and to the nation, in general.

Before gaming, these programs simply did not exist in many cases, and in other cases, they existed, but at a much diminished capacity.

It is important to realize that even now with these significant efforts that have been made, and even now with Tohono O'odham being one of the most successful gaming operations in Arizona, there are still communities on that reservation who were living without the basic necessities of running water, electricity, and phone service.

This just goes to illustrate what has already been said today by other people, that the level of unmet need that continues to exist in tribal communities is truly overwhelming, but at least in the last 8 years, the tribes have been able to begin addressing those serious problems, that historically, they were not able to address.

In Central Arizona, the Salt River Pima-Maricopa Indian community is located right in the midst of the metropolitan Phoenix area. They have only had gaming since 1998. But in that short time, they have cut their tribal unemployment from 32 percent to approximately 15 percent. It is still well above the national average, but it is a great improvement.

The most pressing needs for that reservation are a \$100-million project to upgrade and install a public water system, and another \$57 million to plan, design, and implement a new sewer system.

Finally, that tribe has purchased their own telephone company, so that for the first time, all tribal members on the reservation have access to phone service.

Again, we are talking about essential services and needs: Running water, adequate sewage, the ability to use a telephone. It is important to note that even the Salt River Indian community, which is surrounding on three sides by the affluent communities of Phoenix, Scottsdale, and Mesa, that there are still people on this reservation who do not have access to those essential services.

These infrastructure requirements, which are obviously vital for the quality of life for tribal members on the reservation, are even more necessary if these tribes are going to be able to attract off-reservation businesses, and to diversify their economies, which is the ultimate long-term goal, I believe, of all the gaming tribes.

In Northern Arizona, the Yavapai-Apache Nation has turned around their tribal economy to become the largest employer in the Verde Valley, with over 750 people working for the casino and various other tribal programs.

Every tribal member now, for the Yavapai-Apache Nation, who wants a job, can have one. The tribe can now provide in-house training, educational assistance, and has founded a corporate university to provide skills for the tribal members that will be needed, as that tribe also seeks to diversify their economy, now having over seven tribally-owned enterprises that are non-gaming.

After years and years of substandard housing on that reservation, over 80 percent of the homes have been able to be renovated in the last years. The tribes also establish their own police and fire departments, their own roads and public works departments, and finally, their own tribal court, which comes complete with legal services, treatment, and rehabilitation programs.

Finally, that nation has been able to increase the number of members that they have in college, from less than 20 to over 130 today.

That information that I gave you is deliberately brief in the interest of time. I have more extensive information on each of those tribes that I would like to submit for the record.

In addition to all the benefits that are taking place in the tribal communities, in the non-Indian communities in the State of Arizona, there are significant positive impacts, as well.

Over 9,000 employees work for tribal gaming in Arizona. Over one-half of those are non-Native; although in the rural areas, where the tribes need the most help, the percentage of tribal members as employees goes as high as 84 percent.

The tribes in Arizona spend over \$254 million in goods and services. They pay over \$28 million in Federal and State payroll taxes, and they generate an additional \$40 million in additional State and local taxes, indirectly.

Finally, the Udall Center for Public Policy Studies estimates that the indirect economic impacts simply of tribal gaming operations approaches half a billion dollars in economic activity in the State.

None of this would be possible, the impacts on the tribal communities or the impacts on the non-tribal communities, without strong public confidence in the integrity of Indian gaming operations in the State.

In Arizona, we currently have 19 tribal gaming operations operating, and I believe we have two more that are in the design and planning stages. To my knowledge, at this point, only one of those tribes, operating one gaming facility, uses outside management to run their facility. All the rest of them are owned and operated completely by the tribe.

In Arizona, as in other States, independent tribal regulatory commissions take the primary responsibility, and are on the front line to regulating Indian gaming in the State, subject to the oversight of the Arizona State Department of Gaming.

Over 515 people in the State and \$25 million are dedicated annually to regulating Indian gaming in the State of Arizona. It is important to realize again, when looking at that 515 people and that \$25 million, combined between the tribes and the State, that gaming operations in Arizona are subject to more strict limitations than many of the States in the country.

Casinos are not allowed to have more than 500 slots, and there are strict limits on the number of slots per tribe. So in many ways, the operations are smaller than the rest of the country.

To provide an objective assessment, an independent assessment, of the regulatory efforts in the State, the Arizona State Auditor General reviewed the performance of the Arizona Department of Gaming 2 years ago, and the adequacy of tribal State regulatory efforts.

The State Auditor General identified three primary goals for regulation of Indian gaming: To ensure the fairness of gaming activities; to ensure the safety of patrons; and to prevent any infiltration of organized crime into tribal gaming.

They issued a 40-page report, but it basically summarized into three points: That the regulation of Indian gaming in the State of Arizona, between the tribal regulatory entities and the State, is extensive, well defined, consistently implemented, and effective in achieving those goals; that tribal and State activities are consistent with the best regulatory practices used nationally, including in the States of New Jersey and Nevada; and indeed, the State Auditor General found that the regulatory approach in the State was so extensive and so effective, and there was so much overlap between tribal and State regulation, that one of the alternatives that the Auditor General proposed to the State legislature was that the State activities be streamlined.

Although the legislature did not ultimately adopt that approach, I do think it is indicative of the level of comfort that the State and tribes have with the regulatory structure in the State of Arizona.

In summary, Arizona Indian gaming is providing invaluable assistance to the tribal governments in providing for the needs of their people and for rebuilding their economies which, as has been pointed out, have been destroyed in the last 200 years. Second, they provide a significant, positive economic impact to the State of Arizona.

Third, it is extensively and effectively regulated with such public integrity that over two-thirds of the people in Arizona have consistently supported Indian gaming in Arizona by tribal governments on tribal lands. They have been supported in numerous public hearings, numerous polls, and at the ballot box, and we expect that support to continue.

Thank you for your time, and I, too, am willing to answer any questions about Indian gaming in Arizona.

[Prepared statement of Mr. LaSarte appears in appendix.]

The CHAIRMAN. I thank you very much, Mr. LaSarte.

Mr. Burris.

STATEMENT OF TRACY BURRIS, CHAIRMAN, OKLAHOMA INDIAN GAMING ASSOCIATION

Ms. BURRIS. [Greeting in Native tongue.] Greetings, Mr. Chairman and Mr. Vice Chairman. I am Tracy Burris. I am the chairman of the Oklahoma Indian Gaming Association.

I am a member of the Chickasaw Nation of Oklahoma. I also serve as the Gaming Commissioner of the Chickasaw Nation. I have been involved in Indian gaming in Oklahoma for more than 12 years. I started as a floor worker in a tribal gaming facility. Now, I serve as a regulator for my tribe.

Today, no tribe in Oklahoma has been successful in entering into a meaningful compact with the State of Oklahoma. As a result, tribal gaming facilities in Oklahoma derive nearly all of their revenues from Class II gaming, which is limited to bingo and other games like bingo.

Our tribal governments largely depend on these revenues to pay for tribal governmental programs. Our survival is dependent on making bingo profitable.

One of the primary issues that Indian tribes in Oklahoma face is determining whether a particular game is class II or class III. The Indian Gaming Regulatory Act defines class II gaming as bingo and other similar games to bingo, as well as certain non-banking card games that are permitted under State laws.

It allows the use of technological aids to play bingo and similar games, while also expressly prohibiting the play of facsimiles of any game of chance.

Without a compact determining the difference between a Class II technological aid and a class III facsimile, it has been a source of great confusion.

Most of the confusion comes from the National Indian Gaming Commission's definitions regulations. The regulations define the term "facsimile" so broadly that it is almost any electronic bingo or pull tab game that meets the definition of a Johnson Act device.

To address this problem, the National Indian Gaming Commission has issued a proposed rule that would rescind the NIGC's current definition of facsimile. The Oklahoma Indian Gaming Association strongly supports this action as a step toward bringing the National Indian Gaming Commission's regulation out of conflict with IGRA and recent Federal Court decisions.

The decisions of three Federal Courts of Appeal made clear the need for the National Indian Gaming Commission to reform its definition regulations. The Washington, DC Circuit Court of Appeals

recently ruled that the Lucky Tab II is a class II machine, without the benefit of clearly articulating classification standards from the National Indian Gaming Commission.

On behalf of the Oklahoma Indian Gaming Association, I want to thank the National Indian Gaming Commissioners for taking the first step toward bringing some common sense to the issue. I also want to thank the members of the committee, who have been supportive of our efforts to clarify the standards of class II gaming.

To bring greater clarity to this issue, we believe that the National Indian Gaming Commission should take the additional step of revisiting its definition of a technical aid, and engage in a negotiated rulemaking with the appropriate parties, to develop a criteria for classifying games.

Mr. CHAIRMAN AND MR. Vice Chairman, you know from your good work the value Indian people place upon the sovereignty of their tribes. In Oklahoma, the spirit and the sanctity of tribal sovereignty remains very strong. It is with this principle that we find it difficult to accept the National Indian Gaming Commission's classification of games regulations.

These regulations require the National Indian Gaming Commission to prove each game before tribes could offer the game for play.

Under current law, the NIGC has an oversight role, but the Tribal Gaming Commissions, whose authority comes only from the inherent sovereignty of the tribes, are the first line of regulation, and have the primary jurisdiction over these issues.

While we understand the need for the National Indian Gaming Commission to develop a formal process for classifying games, one that takes away the sovereign authority of the Tribal Gaming Commissions is unacceptable.

Another example of a Tribal Gaming Commission at work is that of the Cherokee Nation of Oklahoma. It spent thousands of dollars on two independent testing laboratories, to test the technical components of a magical Irish bingo pull tab machine.

Both the independent laboratories and the Tribal Gaming Commission concluded that the machine met the definition of a class II device. The Tribal Gaming Commission then gave its approval to play the game at their facilities.

Soon after, the National Indian Gaming Commission determined that the machine was a class III game. A Federal Court in Oklahoma did rule that the Cherokee National Gaming Commission was correct.

Classification of regulations can only be successful if the Tribal Gaming Commissions have a meaningful role in their implementation.

I hope this committee would encourage the National Indian Gaming Commission to work with Tribal Gaming Commission, before it initiates a rule on this issue.

Mr. Chairman and members of the committee, we want to work with the committee and the NIGC to bring greater clarity to the class II definition, and to make the classification on regulations workable in Indian country.

Again, on behalf of the Oklahoma Indian Gaming Association, I want to thank you for the opportunity to appear before you. I

would like to take this time to answer any question that you may have.

[Prepared statement of Ms. Burris appears in appendix.]

The CHAIRMAN. Thank you very much, Mr. Burris.

Before I proceed, I would like to just make one observation. I have participated in dozens of hearings relating to gaming. As I recall, in the early days, the panel would almost consistently and uniformly be very critical of the activities of the Gaming Commission, and it was a hearing of complaints.

But today, I think the tone has changed a little. I note that the Commission has received much praise for its activities, its steadfastness, its integrity, and I am very pleased with that.

Because of the complexity involved, and because of the nature of the issue, I will be, on behalf of the committee, submitting several questions to all of you. These are questions on things such as criminal activities.

I am certain you have noted that whenever the press speaks on Indian gaming, 9 times out of 10, they are speaking of syndicates of crime, skimming, laundering, and such.

So I will be asking you specifically, have you experienced any infiltration by organized crime into your gaming operations, or have you experienced any attempt for such infiltration, and if so, how did you address this problem? What is your experience with skimming? What is your experience with money laundering? What is your experience with crimes within the operation?

Then I will be asking questions on what are the benefits? All of you have touched upon these benefits. But what the committee will try to do is to maintain sufficient resource material, so that if questions arise on criminal activity or benefits from gaming, we would have these things ready.

I would hope that all of you will help us in responding to these questions. We will have a whole series of questions. Obviously, we will have questions on your relationship with your community, your relationship with non-gaming Indian nations, your relationship with the Commission, your relationship with the Interior Department, and your assessment of such relationships.

So it will be a very comprehensive questionnaire, and I hope that you will respond to them.

Mr. Vice Chairman.

Senator CAMPBELL. Thank you, Mr. Chairman.

I am sorry that I got back a little late, too. I do not know which door you use to get over there and vote and get back here so quickly, but I need to follow you more often. Indians are never supposed to be lost. [Laughter.]

I appreciate your testimony. For those of you who I did not hear, I will read your testimony carefully. But let me just say, first, to my friend, Ernie Stevens, I think one of the reasons that I always enjoy hearing you talk is because you know the context of what happened, in the olden times before now.

I would tell you that sometimes when you speak, if you have tears in your heart, I would worry if you did not, very frankly, knowing what Indian people have gone through.

In that context, when we talk about crime and talk about gaming now, and where this whole thing is going with modern Indian

America, I think it is really important to remember where you came from and where we have been.

I would say to Mr. George, that if the Indians of New York had known better when they sold Long Island for \$26 bucks of beads, they probably would not have done it.

But thinking in terms of crime, I will bet there is more crime in that same piece of land now than all of Indian country combined, in any 24-hour period.

It kind of amazes me, I guess as it does the Chairman, that so much focus has been put on the potential crime, when the Department of Justice says there is not a big problem, and tribes themselves say there is not a big problem. But we keep focusing on that. I guess that is because it is an easy target. They ought to focus more on Long Island, if they want to talk about crime.

But I did want to ask maybe just one question of all of you because, as the Chairman has indicated, a lot of the statements that we were getting and letters we were getting, were pretty upset about the Indian Gaming Commission, and that seems to have moderated a little bit now.

I do not know if that is because they are doing a better job, or you are communicating better with them, or what. But the bottomline still remains that they want to be able to assess \$16 million in assessments, up from the \$8 million that they have now.

I would like to just know your opinion on that.

Mr. STEVENS. I am just going to make sure I review my testimony here. The IGRA intends that Indian tribes and States are to establish the regulatory framework for class III gaming and the compacting process. The NIGC is intended to play a support role by reviewing audits and management contracts, and approving tribal ordinances.

Tribes will invest \$150 million this year in tribal regulatory systems, and over \$30 million for the State regulatory systems. Given that background, we believe the current level of resources of NIGC is about right.

NIGC, the Federal regulator, needs to respect the tribal and State regulators, and avoid a duplication of services. NIGC is the third level of jurisdiction, and it should stay close to IGRA terms.

From my perspective, again, you know, I have the utmost respect for those regulators, and I have made that clear to them. I have interacted early on in my term as the Chairman of NIGA with Commissioner Liz Homer.

So we respect them, but at the same time, as I stated in my oral testimony, we think we have an outstanding lineup of checks and balances in the tribal systems, and I used my tribe as an example.

But those systems are throughout Indian country, and we strengthen those systems by working together through our associations and through our groups, through the National Indian Gaming Association. We worked together to strengthen those associations.

That is what I think you will see, and we appreciate that line up of questions that we will answer. But, you know, we will continue to assert that we have a strong, strong body of regulators, and checks and balances in Indian country.

Senator CAMPBELL. I assume that is a no?

Mr. STEVENS. Yes, sir.

Senator CAMPBELL. All right, how about Mr. LaSarte, when we talk about increasing their ability to assess?

Mr. LASARTE. As I described, I think that the tribes in Arizona are happy and content with the current regulatory structure. The subject of NIGC increasing their funding is something that we have not discussed as a group, and I could not really comment on what our 17 members would want us to pay.

Senator CAMPBELL. Okay, Mr. Tucker, we need your thinking.

Mr. TUCKER. Well, we need to know what the work plan is. We do not know what that is. It could be \$8 million; it could be \$10 million. We do not know that. It could be \$6 million.

Senator CAMPBELL. Yes.

Mr. TUCKER. But until we find out what their work plan is, we really cannot say what it should actually be. But, you know, we are highly regulated. There are tribes out there in California right now, who spend almost \$4 million a year, just on their own regulations.

So with more regulations, personally, I think it could be pretty close to what it is. But, like I said, until we find out their work plan, I going to have to say that I could not tell you right now.

Senator CAMPBELL. Okay, thanks; Mr. George.

Mr. GEORGE. My vote would be a resounding no.

Senator CAMPBELL. That is pretty clear. Other than that, do you have strong feelings about it? [Laughter.]

Mr. GEORGE. We do, because you may know that a few years ago, we sued the NIGC over the fee structure, because of the language at that particular time, that said self-regulated tribes, like the Mississippi Band of Choctaws, and according to our compact, we feel that if any tribe is a self-regulating tribe, the Oneida Nation of New York certainly is.

What we would like to see is more of that self-regulation for the tribes in class III gaming, as well as those in class II. As you will note, in 1988, it said that the NIGC would issue self-regulatory certificates for tribes in class II. Well, they did not even have those regulations until just recently.

So we feel like with the amount of money that we spend on regulation, because the legislation, the statute, is very clear on the nation/State compact, whatever is negotiated is what regulates a gaming operation. In our State, as I stated before, we are very strict. We are spending a lot of money.

Senator CAMPBELL. What do you pay in fees now to NIGC?

Mr. GEORGE. Approximately \$80,000 a year.

Senator CAMPBELL. I notice your total regulatory budget is \$8.8 million, which is roughly the same, but just a little more than NIGC's budget. But you employ 206 people, which is about three times as many as NIGC. What is the average salary for them, if I might ask?

Mr. GEORGE. Oh, it probably is in the neighborhood of \$50,000 to \$60,000, except for the few professionals that we have on the Gaming Commission and executive directors.

Senator CAMPBELL. I have maybe one last question. I noticed with interest, and I read the sports pages all the time, that the Oneida Nation is hosting boxing matches. One of the reasons that

it was big time news was because Joe Frazier's daughter and Mohammed Ali's daughter were two of the boxers.

Many tribes are doing that now. There are a number of them in California and other places that are hosting boxing. Have you had to deal with State or Federal boxing authorities? That is a little bit away from the question of gaming, but there is a component in boxing, obviously.

Mr. GEORGE. Yes; the ABC, the Association of Boxing Commissioners, with Greg Serb from the New Jersey Boxing Commission as the chairman of that organization, this is an organization of all of the State Boxing Commissioners.

There are five tribes, so far, that are members of the ABC. We have created our own Boxing Commissions to regulate the fights on Indian land.

I am a former member of our Boxing Commission. I was one of the first Commissioners. We have promulgated the regulations that are as stringent as New York State's Boxing Commission.

The CHAIRMAN. Does each tribe have its own Boxing Commission?

Mr. GEORGE. Not every tribe has, but a lot of them are going into it now. In fact, there is a meeting of the Association of Boxing Commissioners, beginning today in New Orleans, Louisiana, that we are sending delegates to, that will go over some of the things.

There are five tribes that are members of the ABC. One is Pablo from Arizona. I am not so sure of the name, but Miccasookie are members of that organization, Pequot, Mohegan, and also the Oneida Indian Nation. I believe Cherokee is getting ready to submit an application. You have to be voted in by a panel.

Senator CAMPBELL. The question that I was going to ask is that in Las Vegas, of course, there are books made on boxing matches. Is there any connection with the boxing?

Mr. GEORGE. No; there is no gaming on the outcome of a boxing match.

Senator CAMPBELL. I see, good, thank you.

I might also commend you on passing up the TPA. That is not done too often.

That has been one of the things that we have wrestled with for a number of years here, on how to make TPA more equitable to the tribes that really need it, without trying to take away from any rights that other tribes have. But I think that is a great gesture, and something that other tribes ought to look at.

Mr. GEORGE. Well, this goes back to our people. If it was up to me, I probably would not have agreed with it. [Laughter.]

I would have probably tried to point out the fact that it was one of the things that in payment of our land, it was something that we had due and coming to us.

But the people of the Oneida Nation said, when we entered into gaming, that as soon as we were able to, we want to be self-sufficient. At a general council meeting, we were questioned about our ability, if we were to give up those TPA dollars, could we do it. Our answer had to be yes.

Senator CAMPBELL. But that goes to other Indian people in need.

Mr. GEORGE. It goes to the other people, the other tribes within the Eastern Region to use, depending on what level they are at, and the amount that they received.

We have a tier methodology that was introduced by Tim Martin to the budget committee, that we used to re-distribute those funds that were turned back. I should point out that the Mohegan Tribe has also followed suit in doing that.

Senator CAMPBELL. That is very good.

I have just one last question, Mr. Chairman, if I might, to Mr. LaSarte. As I understood your testimony, and I was jotting some notes here, the Indian Gaming Commission of Arizona gives small business loans to who, to tribal members that are trying to open a small business?

Mr. LASARTE. I believe you are referring to the Tohono O'odham Nation, which I was discussing at the time.

Senator CAMPBELL. Oh, maybe it was.

Mr. LASARTE. The Tohono O'odham Nation's Tribal Department of Economic Development has given out over \$15 million in small business grants to over 150 recipients.

Senator CAMPBELL. Okay, well, I was going to ask you how they determine the recipients. You probably would not know that if it is a tribal decision; but thank you.

Mr. Chairman, thank you for giving me the time to ask these questions.

The CHAIRMAN. Thank you very much.

Senator CAMPBELL. I will also have a few in writing, too.

The CHAIRMAN. I would like to make an observation before we bring this hearing to a close. In the years that I have served on this committee, two elements have been extremely important.

No. 1, is sovereignty. Very little has been said about sovereignty today, but I am certain we understand that without sovereignty, you will not be sitting here. No. 2, is the government-to-government relationship. Very little has been said about that today.

I would just like to remind all of us here, that when we entered into this chapter, the Federal Government, the Government of the United States, adamantly refused to involve itself in gaming operations. They wanted no part of it.

We had to, on our own initiative, set up this Commission. One of the fundamental reasons for establishing this Commission was a very simple one: To maintain the sovereign relationship between the Government of the United States and the governments in Indian country.

Now we could have said, okay, you leave it up to yourselves. You set up your own regulatory Commission and do it on your own; or let the States do it, as they are doing under the compact.

By doing that, I was afraid that you may be slowly whittling away this government-to-government relationship with the Federal Government. Remember, your treaties are not with the State government. They are with the Federal Government. So I would think that it would be in your best interests to make certain that this relationship remains strong.

The last observation is the one that President George addressed. You know, I think he is correct. We laughed at him, and we chuckled when he said he would have been against it.

Keep in mind, that whatever the Federal Government is providing, we are not giving anything. We owe you that, by treaty provisions.

I am not an Indian chief. But if I were a leader of one of the Indian nations, a nation that has done well and is successful in gaming, I would not give that TPA money back to the Government. I would, on my own initiative, decide who to give it to. You are the sovereign. I would not return it to them. I would insist that whether I am wealthy or poor, a contract is a contract.

When we make a treaty agreement with another country to provide them with certain assistance, if that is the contract, we follow that, even if that country gets wealthy.

So if you want to maintain your sovereign status, and maintain a strong government-to-government relationship, little things like that should be taken into consideration. That is my view.

Senator CAMPBELL. Mr. Chairman, I would just like to ask one thing to clarify, because I am a little bit lost here. On the TPA, I agree with the Chairman, that that is something that the Federal Government owes and needs to keep up.

But do you turn that back into the Federal Government, and then it is redistributed, or do you have a formula where you get it, and then redistribute it among tribes that need it more?

Mr. GEORGE. No; it has been allocated to us, and we have notified by letter where we wanted that money to go and the type of methodology that was used. That is because it actually has not gotten to us, yet, for fiscal year 2002.

But when we first approach this, and we approach our attorneys, it is, could we do it? Well, we probably could not do it by just accepting the money, because they had a certain criteria that we had to use that money for. We could not just give it to another tribe that maybe was in need of it. That is what our attorneys told us.

So when we went to the BIA and talked about returning those dollars, they said, well, we do not know if that is legal or not. They did not know either, because it never had happened before.

But since that time, we have worked with them, and come up with a criteria or a methodology to use in redistributing that money.

So, for example, in the Eastern Region, we tell them how much money we think should go to each tribe, and they do that, according to the methodology that we determine, and so they include it.

It is not a reoccurring thing. This happens every year. That is the way that we see it, to make sure that the tribes that need it.

Senator CAMPBELL. So each year, you determine for that year, where you want it to go?

Mr. GEORGE. Well, if something happens to gaming, we may have to say, okay, we will have to accept those TPA funds. It is not that we just said, we do not want it anymore. It is allocated every year, but then it is used to help those tribes that may not be as fortunate as we are.

Senator CAMPBELL. I understand, thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Well, with that, once again, thank you very much. This committee will stand in recess until the next hearing.

[Whereupon, at 2 p.m., the committee was adjourned, to reconvene at the call of the Chair.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA

Mr. Chairman, I thank you and Vice Chairman Campbell, for scheduling this committee hearing today. This committee has an important oversight responsibility with regard to the implementation of the Indian Gaming Regulatory Act of 1988 and related tribal gaming issues.

As I understand it, this hearing is the first in a series of hearings that the Chairman intends to hold on Indian gaming issues in the 107th Congress. It has been my pleasure to work with the Chairman on this issue for over 15 years herein the Senate and with our dear friend and former colleague from Arizona, Mo Udall, before that. There are few issues that are of more significance for Indian communities.

Let me start by emphasizing the congressional declaration of policy from the act which states that a key purpose of the Indian gaming law is to:

“Provide, a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments.”

This fundamental principle is the focal point of this hearing today, and that is the need to ensure that the framework of the act to regulate Indian gaming is sound and keeps pace with the growth of the industry. Because Indian gaming is also part of a high-profile financial and patron oriented industry, the committee is also compelled to ensure the general public that Indian gaming remains generally free from criminal activity or other regulatory problems.

Since the passage of the Indian Gaming Regulatory Act more than 12 years ago, the Indian gaming industry has grown beyond most expectations:

- At the time the Indian gaming law was enacted, an estimated 100 tribes operated some form of gaming, with estimated revenues ranging around \$100 million.
- Today, approximately 196 tribes are operating 309 gaming facilities with revenues exceeding \$10 billion. Approximately 212 tribal/State compacts have been federally approved in 24 States for class III gaming.

As Chairman Montie Deer of the National Indian Gaming Commission points out in his testimony, this is a *2,000-percent growth* over the 12-year period.

And, the industry is still growing. Currently, other tribes are seeking to expand their existing gaming operations while still more tribes are seeking new or modified compacts.

In my home State of Arizona, 17 tribes currently manage tribal casinos. Income from Arizona Indian gaming has been reported to support more than \$250 million, in purchases of goods and services in the Arizona.

Today's hearing will no doubt highlight the economic benefits of Indian gaming, both to tribal and neighboring communities. Tribal gaming revenues provide an economic boost where it did not exist before, particularly in areas where the Federal Government itself failed to uphold its responsibilities to foster economic develop-

ment for tribes. Social services, hospitals, community centers, schools, and successful diversified economic activities are all an outcome of tribal gaming revenues.

From time to time, we also hear about controversies in, Indian gaming, alleged misconduct of gaming officials or managers, or other problems with the implementation of the Act that potentially interfere with a responsible and sound regulatory structure.

These are important issues that should be raised and discussed before this committee.

It's also important to recall that the Indian Gaming Regulatory Act is in place due to years of extraordinary efforts in the Congress to establish a regulatory and statutory structure where none had previously existed. Before the Indian gaming law, the 1987 *Cabazon* decision made clear that tribes could operate gaming unfettered from State regulation.

There may be areas which require improvement, but we should clarify for the record the status of regulation among the three regulatory entities under IGRA—tribal, State and Federal. In this hearing today and those to come in the months ahead, I hope, to hear about the following:

- The adequacy of the Federal regulatory structure and whether the existing structure is adequate to deal with the existing gaming industry and its potential growth;
- Areas where the law might need improvement; and,
- Investment by the tribes in their regulatory structures.

Many assumptions were made about how Indian gaming would be regulated when the 1988 law passed. We are in a much different position now. I believe that Senator Inouye and I would agree that we should do everything necessary to protect the integrity of the Indian gaming industry, and that is why we are here today.

While we could not invite every gaming tribe to testify today, or all those who may be concerned about Indian gaming, I want the committee to be aware that I wrote to every Indian gaming tribe to seek their comments and ask for their views about the effectiveness of their own tribal gaming regulatory structure and that of the Federal Government. Tribes are often not credited for the amount of investments they make to improve their own regulatory structures. I think we will learn a great deal about the current status of gaming regulation from these comments.

I know that tribal leaders will agree that an appropriate regulatory structure is an important component of self-sufficiency—whether it is for their government operations, general business enterprises, or Indian gaming.

Indian gaming also has its share of critics. Despite readily visible benefits, the force of economic competition and growth concerns neighboring communities and States. I hope that the critics will remember that it is the tribes, that have the most to lose if the Indian gaming law is found to be inadequate in any way, and the most to gain from ensuring that the act keeps pace with the ever changing Indian gaming industry.

Again, I thank the committee for accommodating my request to schedule this hearing and I look forward to the testimony from today's witnesses and further comments from the tribes.

PREPARED STATEMENT OF M. SHARON BLACKWELL, DEPUTY COMMISSIONER OF
INDIAN AFFAIRS, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Good Morning Mr. Chairman and members of the committee. My name is Sharon Blackwell, deputy commissioner of Indian Affairs. I am pleased to be here today to present an overview on the role of the Secretary of the Interior [Secretary] in the implementation of the Indian Gaming Regulatory Act of 1988 [IGRA].

At the outset, let me state that the Department strongly supports the underlying purpose of the IGRA to provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments. Since the enactment of IGRA in 1988, many Indian tribes have come to consider gaming as an effective means of generating revenue to fund tribal programs and to stimulate economic development on economically stagnant or depressed Indian reservations. Although precise financial data may not be readily available, there is no question that Indian gaming is working as a tool for tribal economic development, and as a matter of Federal policy, the Department supports tribally owned gaming under IGRA.

As you know, Congress has placed regulatory and enforcement functions under IGRA with the National Indian Gaming Commission [NIGC], and the role of the Secretary is to implement specific residual statutory functions under the act. These

functions are as follows: (1) Approval of class III gaming compacts between Indian tribes and States; (2) Approval of revenue allocation plans for per capita payments of gaming net revenues to tribal members; (3) two-part determinations under section 20(b)(1)(A) of IGRA; (4) Promulgation of class III gaming procedures in circumstances where a tribe and a State cannot agree on the terms of a compact, and (5) the appointment of the two associate members of the National Indian Gaming Commission. In addition, and although IGRA does not refer to these functions specifically, the Department is also involved in reviewing applications to place land into trust for gaming, reviewing gaming-related land leases, reviewing certain gaming-related agreements for services relative to Indian lands under 25 U.S.C. section 81, and making legal determinations regarding whether parcels of land qualify as "Indian lands" under IGRA.

I will now turn to an overview of how the Department has implemented some of these functions.

IGRA provides that class III gaming activities shall be lawful on Indian lands only if such activities are, among other things, conducted in conformance with a tribal State compact entered into by an Indian tribe and a State and approved by the Secretary. The Secretary may only disapprove a compact if the compact violates (i) any provisions of IGRA; (ii) any other provision of Federal law that does not relate to jurisdiction over gaming on Indian lands; or (iii) the trust obligations of the United States to Indians. The Secretary must approve or disapprove a compact within 45 days of its submission, or the compact is considered to have been approved, but only to the extent the compact is consistent with the provisions of IGRA. A compact takes effect when the Secretary publishes notice of its approval in the Federal Register. As of today, the Department has approved 212 compacts in 24 States for class III gaming between Indian tribes and States. The Department takes the position that amendments to compacts are subject to the review and approval of the Secretary under IGRA.

If an Indian tribe and a State are unable to reach agreement on the negotiation of a compact, IGRA provides a statutory scheme that can result with the issuance of class III gaming procedures by the Secretary. To date, the Secretary has issued class III procedures for only one tribe: The Mashantucket Pequot Tribe of Connecticut on May 31, 1991.

The statutory framework for the issuance of class III procedures under IGRA was destabilized when the Supreme Court, in 1996, ruled, in *Seminole Tribe v. State of Florida*, that the State may assert an 11th amendment immunity defense to avoid a lawsuit brought by a tribe alleging that the State did not negotiate in good faith. After the *Seminole* decision, States were left with the power to veto IGRA's dispute resolution scheme, and hence with the ability to stalemate the compacting process. To provide a remedy to the problem created by the *Seminole* decision, the Department published a rule on April 12, 1999, at 25 CFR part 291, authorizing the Secretary to promulgate class III procedures in limited circumstances when a State and a tribe are unable to voluntarily agree to a compact, and the State has asserted its immunity from suit brought by an Indian tribe under IGRA. To date, seven tribes have filed an application with the Bureau of Indian Affairs [BIA]. The BIA rejected three of these applications, and is still considering the applications of the other four tribes [Seminole Tribe of Florida, Miccosukee Tribe of Florida, Santee Sioux Tribe of Nebraska, and the Confederated Tribes of the Colville Reservation of Washington]. The Secretary, of course, will abide by the commitment of her predecessor not to issue class III procedures for any tribe until a final decision is rendered on any lawsuit brought by a State challenging the authority of the Secretary to promulgate the regulations in 25 CFR part 291. Currently, the State of Florida and the State of Alabama have jointly filed a lawsuit against the Secretary regarding this matter.

Under IGRA, the Secretary is charged with the review and approval of tribal revenue allocation plans relating to the distribution of net gaming revenues. Net gaming revenues from class II and class III gaming may be distributed in the form of per capita payments to members of an Indian tribe provided the Indian tribe has prepared a tribal revenue allocation plan which is approved by the Secretary. Absent an approved revenue allocation plan, IGRA constrains the use of net revenues to the following purposes: (i) to fund tribal government operations and programs; (ii) to provide for the general welfare of the Indian tribes and its members; (iii) to promote tribal economic development; (iv) to donate to charitable organizations; or (v) to help fund operations of local government agencies. On November 10, 1999, the BIA moved the authority to approve revenue allocation plans from the 12 regional directors to the deputy commissioner of Indian Affairs to provide more uniformity in the review process, and on March 17, 2000, the BIA published a rule at 25 CFR part 290 establishing procedures for the submission, review, and approval of tribal revenue allocation plans. To date, the BIA has approved 55 revenue allocation

plans. The Department takes the position that amendments and modifications to an approved plan must be submitted for approval to the Secretary under IGRA.

The decision to place land into trust for the benefit of an Indian tribe is usually at the discretion of the Secretary after consideration of the criteria for land acquisitions in 25 CFR part 151. When an acquisition is intended for gaming, consideration of the requirements in section 20 of IGRA also apply. Section 20 prohibits Indian tribes from conducting class II or class III gaming activities on lands acquired in trust after October 17, 1988, unless one of several exceptions applies. To date the Department has approved 20 applications that have qualified under an exception to the gaming prohibition contained in section 20. However, if none of the specific exceptions in section 20 applies, an Indian tribe may still conduct gaming activities on after-acquired trust lands if it meets the requirements of section 20 (b)(1)(A) of IGRA which provides that gaming can occur on the land if the Secretary, after consultation with appropriate State and local officials, and officials of nearby Indian tribes, determines that a gaming establishment on newly acquired land will (1) be in the best interest of the tribe and its members, and (2) not, be detrimental to the surrounding community, but only if the Governor of the State in which the gaming activities are to occur concurs in the Secretary's two-part determination. Since October 17, 1988, State Governors have concurred in only three positive two-part Secretarial determinations for off-reservation gaming on trust lands [Forest County Potawatomi gaming establishment in Milwaukee, WI, Kalispel Tribe gaming establishment in Airway Heights, WA, and Keweenaw Bay Indian Community gaming establishment near Marquette, MI]. The BIA has followed a "Checklist" for gaming acquisitions issued on February 21, 1997, to inform its review of two-part determinations under section 20(b)(1)(A) of IGRA, and published a proposed rule in the Federal Register on September 14, 2000 (25 CFR part 292). The proposed rule established procedures that an Indian tribe must follow in seeking a two-part Secretarial determination under section 20(b)(1)(A). The Secretary is in the process of evaluating the merits of the proposed rule issued by her predecessor.

Finally, I will touch briefly on the role of the Secretary in approving gaming-related agreements under 25 U.S.C. section 81. The NIGC is, of course, charged under IGRA with the review and approval of management contracts. As a matter of practice, all gaming-related agreements are submitted to the NIGC for their review. If the NIGC makes a determination that a gaming-related agreement is not a management contract or otherwise subject to its review and approval under IGRA, it will forward the agreement to the BIA for a determination of whether the agreement is subject to the residual approval authority of the Secretary under 25 U.S.C. section 81. The Department will then determine whether the agreement is subject to approval under section 81, and, if a determination is made that it is subject to review and approval, will determine, as trustee for the tribe, whether it should be approved. Congress substantially amended section 81 last year, and the Department recently published regulations at 25 CFR part 84 to implement these amendments to section 81.

This concludes my prepared statement. I will be happy to answer any questions the committee may have.

PREPARED STATEMENT OF BRUCE G. OHR, CHIEF, ORGANIZED CRIME AND
RACKETEERING SECTION, CRIMINAL DIVISION, DEPARTMENT OF JUSTICE

Thank you, Mr. Chairman, Mr. Vice Chairman, and members of the Senate Committee on Indian Affairs for the opportunity to provide a written statement on Indian gaming and the Indian Gaming Regulatory Act [IGRA]. Specifically, I will address the issues of the infiltration of tribal gaming by members of organized crime and the Department of Justice's role in the contracting process under IGRA. My name is Bruce G. Ohr and I am the chief of the Organized Crime and Racketeering Section in the Criminal Division of the Department of Justice [the Department].

Issue of Infiltration of Indian Gaming by Organized Crime

We understand that the committee is chiefly interested in whether the Department has any evidence that supports the perception that organized crime has successfully infiltrated Indian gaming. The committee's interest is based, in part, upon a July 18, 2001, commentary in the Wall Street Journal which referred to a letter from Representatives Shays and Wolf to President Clinton in which the Congressmen noted that "the influence of organized crime on Indian gambling is alarming. Tribal leaders often find themselves forced into affiliations with members of organized crime rings. This stems directly from the lack of Federal oversight for Indian gambling operations." The Department also is aware that a pending bill, H.R. 2244, the Tribal and Local Communities Relationship Improvement Act, would establish

a Commission on Native American Policy, which would study, among other topics, the influence of organized crime on Indian gaming. The Department is reviewing this legislation but has not yet developed a position.

The Department has found no evidence of a systematic infiltration of Indian gaming by elements of organized crime. There have been isolated incidents of organized crime attempting to infiltrate Indian gaming. For example, members of a Chicago organized crime family attempted to gain control over, and skim profits from, a casino operated by a California tribe called the Rincon Indian Band. A 1993 criminal prosecution arising from this incident resulted in numerous convictions. When the Rincon casino reopened, members and associates of Pittsburgh and Ohio organized crime attempted to infiltrate the same casino. In 1997, the Department successfully prosecuted 17 defendants, which resulted in numerous criminal convictions.

When information about possible organized crime involvement in tribal gaming is received, the Department investigates these allegations. I cannot comment on or provide you with any information concerning any pending or planned investigations. Further, if any tribal gaming operations believe that organized crime elements have tried to infiltrate their operations, the Department strongly encourages the tribal gaming operation to report such activity to Federal law enforcement.

The Department routinely monitors activities of organized crime. For example, the U.S. Attorneys' Offices annually submit organized crime assessments, which outline organized crime problems in each district, to the Criminal Division. Further, the Criminal Division coordinates with the Department of Labor to gather intelligence on whether organized crime has infiltrated the Indian gaming industry via the services industries, such as construction or food and beverage services. Additionally, the Federal Bureau of Investigation routinely assists the National Indian Gaming Commission with conducting background checks of primary management officials and other key employees of Indian casinos.

In March 2001, Congressman Wolf requested that the Department's Office of the Inspector General provide a report on prosecutions of Indian gambling operations, including the infiltration of organized crime. The Office of the Inspector General recently sent its letter report to Congressman Wolf. The Office of Inspector General reported that the Criminal Division, the Federal Bureau of Investigation, and the Office of Tribal Justice said that while there is an increasing potential for organized crime involvement due to growth of Indian gaming revenues, there is a lack of evidence that such involvement has occurred.

The Department's Role in the Process for Approval of Contracts

Finally, the committee has inquired about the role of the Department of Justice with respect to Indian gaming management contracts. I am happy to explain the Department's very circumscribed role in this area. The National Indian Gaming Commission [NIGC] decisions to approve management contracts, to impose civil administrative penalties, as well as its review of tribal ordinances and management contracts for compliance with IGRA are subject to judicial review in Federal district court. The Department represents the NIGC, when named as a defendant, in these lawsuits. The Department also represents the NIGC when its administrative actions require a judicial order to enforce.

Conclusion

Indian tribal gaming has proven to be a useful economic development tool for a number of tribes, who utilize gaming income to support a variety of essential services. While tribal gaming has become a lucrative industry and a potential target for organized crime, the Department has found no systematic attempts by organized crime groups to become involved in tribal gaming. We are unaware of any comprehensive studies or investigations into infiltration of Indian gaming by organized crime. However, there are several Federal and State agencies nationwide which are charged with the responsibility of monitoring Indian gaming operations.

Mr. Chairman, I would like to thank you and the committee for asking for the Department's views on this issue. If we may be of additional assistance, we trust that you will not hesitate to call upon us.

TESTIMONY OF
THE HONORABLE MONTIE R. DEER, CHAIRMAN
NATIONAL INDIAN GAMING COMMISSION
BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS

Oversight Hearing on the National Indian Gaming Commission

July 25, 2001

Mr. Chairman, Mr. Vice-Chairman, members of the Committee, my name is Montie Deer and I am the Chairman of the National Indian Gaming Commission (NIGC). Thank you for the opportunity to appear before you today to testify on the activities of the NIGC. I, along with Vice-Chair Elizabeth Homer and Commissioner Teresa Poust thank you for your on-going support and interest in tribal governmental gaming regulation and the NIGC.

This statement will reflect three goals for today. First, I will highlight the magnitude of the rapid growth of the Indian gaming industry. Second, I will discuss the history, activities and accomplishments of the NIGC as the primary Federal regulator of Indian gaming. Finally, I will summarize some of the most pressing challenges facing the NIGC in our attempts to keep up with this growing industry.

GROWTH OF INDIAN GAMING

Before providing an update on the Commission, it is important to discuss briefly the dynamic nature and scope of Indian gaming. The Indian gaming industry has experienced exponential growth since the passage of the Indian Gaming Regulatory Act of 1988¹ when annual gross revenues totaled approximately \$100 million. In 2000, the industry generated over \$10.6 billion in gross gaming revenues. This represents an increase of more than two thousand percent over this short twelve-year period. We expect the industry to continue growing.

The passage of Proposition 1A in California in March of 2000, for example, has created new, dynamic growth, already affecting the Commission. Sixty-two of the 109 federally recognized tribes in California have negotiated Tribal-State gaming compacts, resulting in more and bigger gaming operations. Revenue predictions for California are high and undeniably will impact this Commission.

¹ Congress created the National Indian Gaming Commission in 1988, when it passed the Indian Gaming Regulatory Act (IGRA). P.L. 100-497, 25 U.S.C. §§2701-2721.

HISTORY AND DEVELOPMENT OF THE COMMISSION

To understand the current phase of the Commission in its development as a federal agency, it is important to look at its short history. In June of 1990, the Commission consisted of a Chairman and two staff members. The first full Commission was not confirmed until April of 1991,² and until 1993, the agency focused primarily on drafting basic regulations. By 1993, the Commission had 19 employees, five of whom were field investigators.

From 1993 until well into 1998, the focus of the Commission became the development of operating procedures and organizational infrastructure to implement those early regulations. It continued to operate on a budget of \$3 million, with a staff of twenty-six to thirty-five. While this Commission made a conscious effort to institute change at a deliberate pace, the industry has continued to grow rapidly.

In 1997, Congress amended IGRA in Public Law 105-83 to permit the NIGC to assess fees on class III tribal gaming and increased the authorization ceiling on assessments from \$1.5 million to \$8 million annually. This money is currently collected by assessing a fee rate of eight one-hundredths of a percent on tribal gross gaming revenues above the first \$1.5 million for each operation. Stated differently, a tribe that generates \$11.5 million in gaming revenue would pay an annual fee to the NIGC of \$8,000. Likewise, a tribe generating \$101.5 million in gaming revenue would pay \$80,000.

Since this increase in 1997, the Commission has taken a careful and disciplined approach to expanding its institutional capacity and presence in Indian Country. We made a conscious effort to institute change at a pace that the Commission could readily absorb, focusing on essential components, especially the field elements, to achieve its regulatory responsibilities. Of our current seventy-seven employees, thirty-six, or more than forty-five percent, are assigned to work in the field.

Although the Commission's FY 2000 budget of \$7.8 million remains below the \$8 million dollar ceiling set by Congress, the growing industry demands on Commission resources are quickly exceeding our capacity to meet these regulatory needs effectively.

We were especially hard hit by the explosion in gaming in California. As you know, California passed Proposition 1A in March 2000. Prior to its passage, there were 39 Indian gaming operations in California, and they were generally limited in scope. Since the advent of legalized class III gaming, there have been 62 Tribal-State gaming compacts that are resulting in more and bigger gaming operations. Some industry predictions for California have ranged from \$3 billion to \$10 billion in annual revenues, but in any event, the impact on the industry, and ultimately this Commission, is undeniable.

² The original Commission consisted of Chairman Anthony J. Hope and Associate Commissioners Joel M. Frank and Jana M. McKeag.

The Commission, like every other federal agency, has developed through stages of drafting regulations, initial implementation, and organizational consolidation. While the NIGC has been meeting its responsibilities, the industry has simply outgrown the agency.

MISSION

Under the IGRA, the Commission's mission is to shield Indian tribes from organized crime and other corrupting influences; ensure that Indian tribes are the primary beneficiaries of gaming revenue; and assure that gaming is conducted fairly and honestly by both operators and players.³ To achieve these goals, the Commission is authorized to conduct investigations⁴ and undertake enforcement actions, including the assessment of civil fines, and/or issuance of closure orders;⁵ review key employee background investigations; and review and approve tribal gaming ordinances.⁶

In a few moments, I will describe how the Commission is organized to meet these goals, what we have accomplished to strengthen our institutional infrastructures, and some of the very significant challenges we face now during this period of dramatic growth in Indian gaming.

PHILOSOPHY

The Commission continues to recognize that the front line of gaming regulation -- effective regulation and enforcement at the tribal level --- is critically important. The Commission's philosophy reflects this belief and focuses on the benefits of voluntary compliance through education, training, and technical assistance.

At its core, the IGRA represents a new kind of federal-Indian relationship in which tribal governments and federal agencies share jurisdiction and coordinate responsibilities. Effective regulation at the tribal level, combined with close coordination between tribes and the NIGC, increases regulatory effectiveness, efficiency, and, most importantly, the overall integrity of tribal governmental gaming. While we have not hesitated to take strong enforcement action when warranted, the Commission believes that voluntary compliance is the best kind of compliance. Given our size and resources, it is critical. Fortunately, it is our experience that the vast majority of gaming tribes strive to be in compliance with the law.

STRUCTURE

The Commission's 77 full-time employees are divided among office headquarters and five field offices and we remain a lean organization. The NIGC is divided into seven divisions as follows:

³ 25 U.S.C. §2702

⁴ 25 U.S.C. §2706

⁵ 25 U.S.C. §§2705,2713

⁶ 25 U.S.C. §2710

Enforcement Division

The Enforcement Division's field investigators regularly visit tribal gaming operations to monitor basic compliance with the IGRA. As discussed briefly, the Commission has an institutional preference for assisting the tribes in achieving voluntary compliance. For that reason, in the course of their more than 600 yearly site visits, our field investigators not only observe and document the level of conformity with the IGRA and the NIGC's regulations, but also provide assistance and training to help tribal gaming operations come into compliance. We have also observed that the physical presence of our representatives seems to be a factor in encouraging compliance. As Chairman, however, I do not hesitate to take action when warranted, and we will take necessary enforcement action when our efforts at achieving voluntary compliance are unsuccessful.

The Enforcement Division also plays a critical role in the processing of gaming employee background investigations. Since the Commission began operations, we have sent the Federal Bureau of Investigation (FBI) more than 100,000 finger print cards received from tribal gaming operations and reviewed more than 50,000 background investigations on key employees and primary management officials. At this point it looks as though, on account of the California surge, we will receive nearly twice as many fingerprint cards this year as we have in the past.

Audits Division

Recognizing that effective regulation of gaming requires the kind of expertise that only trained auditors can provide, the Commission created an Audits Division in 1999. The Commission's auditors assist Enforcement Division personnel with investigations, audit tribal compliance with the Minimum Internal Control Standards (MICS)⁷ and provide advice and assistance to tribal gaming operations. The NIGC has invested well over 400 man-hours in each of the thirteen MICS audits we have conducted, including the pre-visit preparation, time on property, and the writing of the report. This is time well spent because our audit findings, and post-audit work with the tribes, have proven valuable in helping the tribes implement the kind of solid internal control systems that are so critical to the protection of the gaming revenue stream. We have only had auditors on the Commission staff since 1999, and they prove their value on a daily basis. I only wish we had a lot more of them.

Contracts Division

The Contracts Division is responsible for reviewing all gaming management contracts between tribes and outside entities, and investigating the suitability of potential gaming managers.⁸ The division employs both contract financial analysts and financial background investigators. Before a management contract can be approved, I, as Chairman must be satisfied that the terms of the contract meet the criteria established in the Act and that all persons and entities with a financial interest are suitable. Since many of these contracts involve construction and development, the contract approval process also requires Commission compliance with the National Environmental

⁷ 25 C.F.R. Part 542

⁸ 25 U.S.C. §§2710(d)(9), 2711

Policy Act (NEPA). As the Indian gaming industry grows, the workload of the Contracts division pending contracts, background investigations, and environmental reviews – grows proportionately.

Office of General Counsel

The Office of General Counsel (OGC) provides legal support for the agency. The Office is involved in every aspect of the Commission's operation, including administrative litigation of enforcement actions; review of tribal gaming ordinances and management contracts; support of the Department of Justice in federal litigation; issuance of advisory opinions on game classification; and general government law ranging from ethics and the Freedom of Information Act to the Administrative Procedure Act. Eight attorneys, one paralegal and one legal clerk staff the OGC.

Office of Self-Regulation

Since the early days of Indian gaming, tribal gaming commissions have gained significant experience and have become increasingly skilled in regulating gaming activities on Indian land. In 1998, the Commission issued a final rule that affords tribes the opportunity to assume greater regulatory control over their Class II facilities and decrease their fees owed to the NIGC.⁹ The Office of Self-Regulation has primary responsibility for processing tribal petitions for self-regulation. Tribes applying for certificates of self-regulation undergo an on-site visit by a team of NIGC investigators and auditors and must satisfy rigorous approval requirements. On December 1, 2000, the NIGC approved its first certificates of self-regulation for the Menominee Tribe of Wisconsin and for the Confederated Tribes of the Grand Ronde Community of Oregon.

Office of Congressional and Public Affairs

The Office of Congressional and Public Affairs serves as the voice of the Commission and responds to requests for information from the public and Congress. Public and media relations have become an increasingly important aspect of the Office's work as the Commission continues its efforts to provide accurate and timely information to the media and members of the general public.

Regional Offices

One of the most challenging tasks for the Administrative Division the last two years has been the establishment of five regional offices and the integration of those offices into the Commission's computer, communications and administrative structures. Since 1999, we have opened field offices in Portland, Sacramento, Phoenix, St. Paul and Tulsa.

Fully staffed, each office has assigned at least four gaming regulators, including both field investigators and auditors. Prior to the establishment of these offices, as noted by a member of this

⁹ 25 C.F.R. Part 518, as authorized by 25 U.S.C. 2710 (c)(4). Certificates of self-regulation re issued for Class II gaming only.

Committee during a previous oversight hearing, we “had seven investigators working out of the trunks of their cars.” The regional offices allow NIGC personnel to more efficiently and readily offer technical training and assistance to tribal gaming regulators and operators. In those early days, the Commission’s limited staff was unable to visit all of the tribal gaming facilities during any one year. Currently, our goal is to visit each site quarterly. Although, we have not succeeded in meeting that goal, we were able to make approximately 600 site visits last year.

Administration Division

In addition to handling the Commission’s fiscal and budgetary matters, the Administration Division is responsible for overseeing the fee collection process. The Division provides vital support and essential services, including personnel management, procurement activities and information technology to all organizational components of the Commission.

MANAGEMENT INITIATIVES

When Vice-Chair Homer, Commissioner Poust and I, came to the Commission in 1999, it quickly became evident that we needed to improve the institutional infrastructure. After undertaking a management review process in 1999, we began to focus on three areas: (1) computer technology; (2) financial management (including standard operating procedures); and (3) records management.

Computer Technology

The existing computer systems were outdated, inadequate, and lacked the capacity to be modernized to meet the requirements of a growing NIGC or Y2K. We undertook a technology initiative to provide a computer system that would provide a solid foundation for future growth, including a new network system that links headquarters and regional offices. In order to be fiscally responsible, we planned ahead so that we could acquire this new technology in phases as resources become available.

Since 1999, we have replaced outdated desktops and business software, replaced our obsolete e-mail system and server, and upgraded our computer network and centralized phone system to be Y2K compliant. Recently, we installed an Altascan fingerprint scanner and server to facilitate electronic submission to the FBI. This new system will significantly increase our capacity to process fingerprint submissions from the tribes we serve in a substantially reduced amount of time.

This technology initiative has been successful in improving the overall effectiveness of the entire Commission. I am happy to report that the NIGC has a solid technological infrastructure that will accommodate enhanced capabilities in the future.

Financial Management and Establishment of Standard Operating Procedures

The Commission has also established step-by-step instructions to account for and monitor NIGC fees and other revenues made available for: (1) operations, (2) background investigations, and (3) fingerprinting. As the culmination of two years efforts, these standard operating procedures will enable the Commission to provide accurate, timely financial information now and in the future. The National Business Center provides accounting services to the NIGC and has transitioned to the Federal Finance System (FFS) in FY2000. The FFS provides the required financial information used by all Departments, entities and bureaus. This system has kept up with the federal accounting standards advisory board requirements under the premises of the Chief Financial Officer's Act of 1990.

Records Management

Work is now progressing on a new central records and document management system. Our records management plan is being rewritten to take our new organizational structure that includes five field offices, into account. We are exploring the possibilities of electronic records to take full advantage of our state-of-the-art wide area network.

REGULATIONS

The Commission has made significant strides in terms of the substantive regulation of Indian gaming. In recent years, the Commission embarked upon an ambitious regulatory and policy agenda that included implementation of Minimum Internal Control Standards (MICS) regulations; regulations for issuance of Certificates of Self-Regulation for Class II Gaming; promulgating a proposed Gaming Classification regulation; initiating a rulemaking addressing the Environment, Public Health, and Safety; and initiating a rulemaking regarding the definition for electronic facsimile. These are summarized as follows:

Minimum Internal Control Standards (MICS). The MICS were published in January 1999, and were in force for all tribes in February 2000.¹⁰ These regulations were designed to protect the integrity of Indian gaming operations by setting standards for such critical areas as cash handling, game play, internal audits, and surveillance. Regulations of this nature require periodic review to capture both changes in technology and practical considerations arising since implementation. The NIGC has formed a tribal advisory committee to assist in doing just that and we anticipate a proposed rule by the end of this year.

Self-Regulation. Our Office of Self-Regulation¹¹, operating under Commissioner Poust, had its first test this past year when petitions for certificates of self-regulation from the Menominee Tribe of Wisconsin and the Confederated Tribes of the Grand Ronde Community of Oregon were approved. Commission staff, including auditors and field investigators, spent several weeks

¹⁰ 25 C.F.R. Part 542

¹¹ 25 C.F.R. Part 518

thoroughly evaluating the effectiveness of the Tribe's regulatory framework. Each certificate represents considerable work by the Commission over and above an already heavy workload.

Environment, Public Health and Safety Regulations (Notice of Proposed Rule Making).¹² This is another rulemaking in which we have employed a tribal advisory committee. The NIGC published its proposed rule to address the portion of IGRA that requires tribal gaming ordinances to provide for the protection of the environment, public health and safety on July 24, 2000. Public hearings have been held and significant comment has been received from interested parties. We are still in the process of digesting the public input.

Game Classification Regulations (Proposed Rule).¹³ The NIGC has proposed a rule that establishes a formal process for the classification of games played on Indian land under IGRA. The regulation was proposed in response to a growing number of requests by tribal gaming commissions and the gaming industry for advice as to whether a particular game is Class II or Class III. The regulation would require advance approval for play of a game as Class II and establish a process for contesting our classification decisions. This is in contrast to the current situation in which the only mechanism for challenging an advisory classification opinion is to be the subject of enforcement action by the NIGC or the Department of Justice.

Definition of Facsimile.¹⁴ The Commission has recently published for comment a proposal to delete the definition of a "facsimile" from our regulations. Since the courts have been issuing classification opinions, it has been observed that some of the courts have turned to the dictionary definition of that term, rather than the Commission definition. In addition, because the current definition links classification of machines to the Johnson Act¹⁵ any pronouncement in a classification determination by the NIGC can have the unintended consequence of foreclosing Johnson Act enforcement actions even outside Indian Country. Comments on this proposed regulation were due by July 23, 2001.

POLICY PRIORITIES

The Commission continues to place high priority on encouraging and supporting strong, effective and independent tribal gaming commissions. As governments, tribes provide front-line, day-to-day regulation of tribal governmental gaming activities, generally through a tribal gaming commission. Not all tribes have chosen to employ gaming commissions, and much like the diversity in tribal governmental gaming operations, tribal regulatory mechanisms vary in size and sophistication. Tribal gaming commissions that oversee large gaming operations have personnel and budgets nearly as large or larger than the NIGC's and employ experienced personnel with expertise from New Jersey or Nevada. Other tribal gaming commissions and regulators are not as fortunate and rely heavily on the NIGC to provide expertise and assistance.

¹² 65 F.R. 45558, July 24, 2000

¹³ 64 F.R. 61234, November 10, 1999

¹⁴ 66 F.R. 33494, June 22, 2001

¹⁵ 15 U.S.C. §§1171-1178

Regardless of the size of the operation or gaming commission, strong regulation and enforcement of the law at the tribal level is critical to the integrity of the operation and decreases the likelihood that federal enforcement will be warranted. To this end, the Commission embarked upon an aggressive training initiative for tribal gaming commissioners and regulators. Clearly the integrity of Indian gaming depends most heavily upon the efforts of these tribal regulators who work with the operations on a daily basis.

EDUCATION, TRAINING AND TECHNICAL ASSISTANCE THROUGH PARTNERSHIP

The NIGC continues its efforts to provide education, training and technical assistance as a means to achieve regulatory compliance. We provide training in relatively formal sessions, where our representatives talk to gatherings of tribal representatives, and informal sessions, where field investigators or auditors work on-site with the tribe. It is probably safe to say that on almost every workday, somewhere, a representative of the NIGC is providing face-to-face advice or assistance on IGRA compliance to someone involved in the operation or regulation of an Indian gaming operation.

I am also pleased to report that the National Judicial College at the University of Nevada in Reno, is now offering a course entitled, "Essential Skills for Tribal Gaming Commissions" that has been successful. Ninety tribal gaming commissioners have attended the courses in its first two sessions, many of them on scholarships made possible by grants from the Department of Justice.

The Commission also accepted an invitation from the FBI to have one of its field investigators trained by the FBI Racketeering Records Analysis Unit, the division of the FBI responsible for investigating illegal gambling activities. This training included instruction in the analysis and classification of gambling machines, the detection of money laundering activities, and the providing of expert testimony in cases where illegal gaming activities are alleged to have occurred.

CONSULTATION POLICY

Vice-Chair Homer, Commissioner Poust, and I are deeply committed to the principles of the government-to-government relationship with tribes and respect for tribal sovereignty. These principles are not always easily reconciled with our role as regulators, but we work hard to ensure effective communication with the regulated community. Our rulemaking has been carried out using tribal advisory committees and we hold public hearings on our proposed regulations in locations that are easily accessible to tribal representatives.

Further, the Commission holds quarterly consultations across the country in order to obtain input from tribal gaming representatives and leaders. On May 18, 2000, the NIGC held its first consultation in Sacramento, California. Since then, the Commission has conducted three additional government-to-government consultations with more than sixty tribes. The consultations consist of small meetings between the Commission and tribal representatives, as well as training sessions for all interested parties. The process by which we conduct these consultations has become a hallmark

of the Commission and may serve as a model for other government agencies. The Commission's next consultation will be held in San Diego, California on November 6-7, 2001.

COMMUNICATIONS

The Commission continues to improve our communication with the regulated community. In addition to upgrading our computer and phone systems, we have created a website (www.nigc.gov), and are publishing a regular newsletter.

We, as a Commission, continue to try to visit as much of Indian country and as many Indian gaming establishments as possible. On each of these visits I have made an effort to talk face-to-face with the gaming commissions and tribal leaders to explain the activities of the NIGC as well as what we believe to be our role in the regulation of their facilities. I know that my fellow Commissioners have made numerous visits as well.

CURRENT CHALLENGES

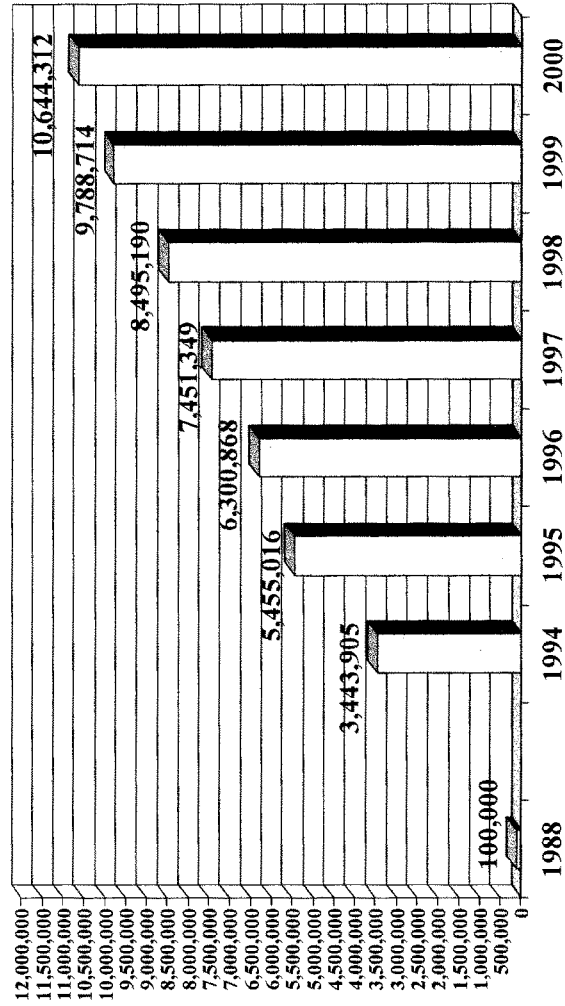
In closing, the Commission finds itself at a critical juncture. Thus far, we have been able to meet the challenges presented by the industry during this period of dynamic change, though frankly, I am deeply concerned about our future. I have a staff of dedicated, skilled professionals who are committed to the proposition that gaming revenue can make a positive difference in Indian country and that effective regulation is the key to keeping the Indian gaming industry healthy. With the rapid growth in the industry, and the explosion of work coming out of California, we are simply not keeping up. For example, with my current force of auditors, it will take between twenty and thirty years to conduct an audit of the internal controls of every Indian casino. These audits should be occurring every five years.

Let me close by re-emphasizing the importance of working closely with tribal governments and tribal gaming commissions to secure voluntary compliance. It is even more crucial given the limited resources available to the Commission. From the agency standpoint, enforcement actions are time-consuming and resource intensive, often involving intense investment of legal resources. Moreover, in fighting such enforcement actions, tribes consume limited resources that are better spent for the purposes that IGRA intended, improving the welfare of tribal citizens.

I hope that this testimony has been responsive to your request. I thank you for your attention and am happy to address any questions that you may have.

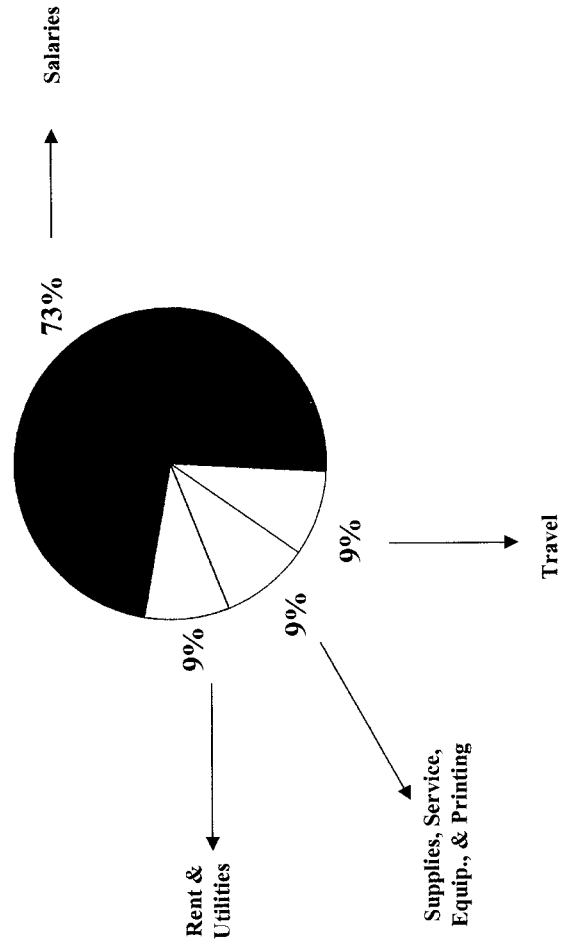


Growth of the Indian Gaming Industry (Revenue in Thousands)





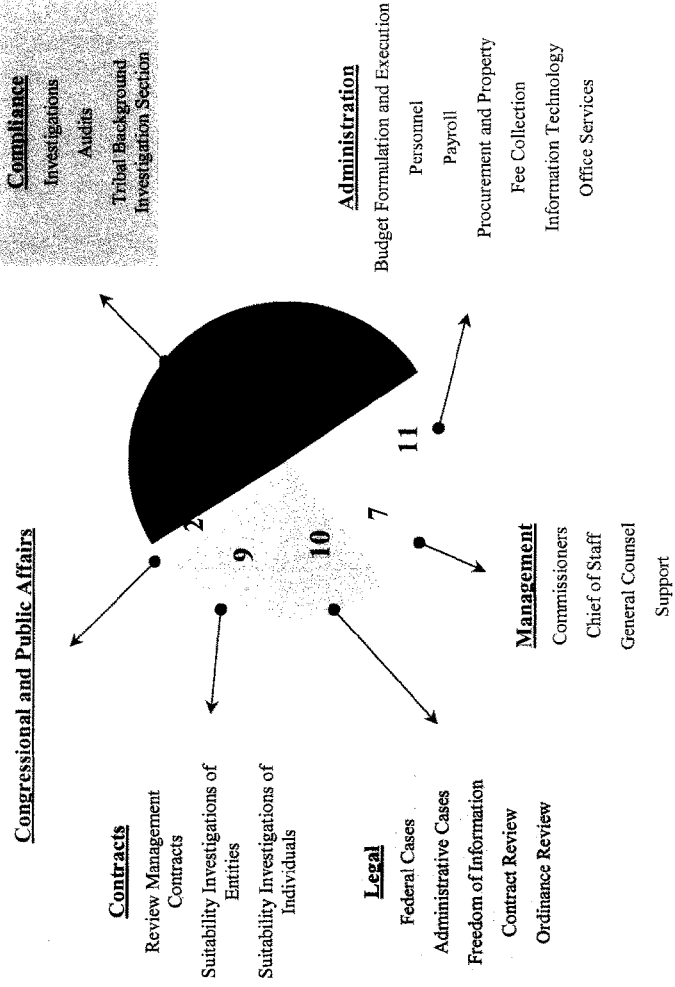
FY 2001 Budget Allocation





2001 Organizational Chart

77 Employees/ 6 Vacancies



**Testimony of Ernest Stevens, Jr., Chairman, National Indian Gaming Association
Oversight Hearing on the Indian Gaming Regulatory Act
Before the Senate Committee on Indian Affairs, July 25, 2001**

Good Morning, Mr. Chairman and Members of the Committee. My name is Ernest Stevens, Jr. and I serve as Chairman of the National Indian Gaming Association. I am a member of the Oneida Tribe of Wisconsin. NIGA is a non-profit association of 168 Indian Tribes dedicated to preserving tribal sovereignty and the inherent right of tribal governments to operate gaming enterprises to raise governmental revenue.¹

Thank you for the opportunity to testify today concerning Indian gaming and the Indian Gaming Regulatory Act of 1988 (IGRA). To begin with, I will testify about some issues that should be addressed under IGRA, the strength of tribal regulatory systems and the National Indian Gaming Commission (NIGC). Then I will discuss the benefits that Indian gaming has produced for Indian Tribes and neighboring communities.

Indian Gaming Regulatory Act Issues

The purposes of the Indian Gaming Regulatory Act are to promote strong tribal governments, economic development, and self-sufficiency and to establish a statutory basis to protect Indian gaming as a means of generating tribal government revenue. 25 U.S.C. sec. 2702. IGRA also recognized that Indian Tribes have the inherent authority to engage in gaming for governmental purposes.

IGRA establishes three classes of gaming: Class I gaming is traditional tribal gaming; Class II gaming is bingo, pull-tabs and related games; and Class III gaming is casino, lottery and parimutuel gaming. Class I gaming is regulated exclusively by Indian Tribes. Class II gaming is regulated by Indian Tribes and the NIGC. Class III gaming is intended to be primarily regulated by Tribes and States through the Class III compacting process, together with the support of the NIGC by approving tribal ordinances, reviewing management contracts, reviewing tribal licenses of key employees, and gaming management personnel.

Seminole and the Secretarial Procedures in Lieu of a Compact

In 1996, the Supreme Court decided *Seminole Tribe v. State of Florida*, 116 S. Ct. 1114 (1996). The Supreme Court explained that through the Indian Gaming Regulatory Act, Congress granted the States an opportunity and obligation to negotiate in good faith for Class III Tribal-State gaming compacts. This is an opportunity generally withheld

¹ 196 of the 561 Indian Tribes in the United States engage in Indian gaming to fund governmental services and promote economic development. In other words, somewhat less than 40% of Indian Tribes engage in gaming. By comparison, 37 of the 50 States employ gaming to fund governmental services and promote economic development. In other words, over 70% of the States engage in gaming.

from States under the U.S. Constitution, which acknowledges an exclusive relationship between Indian tribes and the federal government. *Seminole*, 116 S. Ct. at 1126.² Nonetheless, the Court held that Congress had no authority under the Commerce Clause to waive the States' 11th Amendment immunity. This left Indian Tribes with a right to good faith negotiations to secure a Class III Tribal-State gaming compact, but with no remedy to enforce such rights.

In 1999, the Secretary of the Interior promulgated regulations, which provide that an Indian Tribe may request the Secretary to issue Class III gaming procedures in lieu of a compact if, after 180 days of negotiation with the State, no compact has been agreed to, and the Tribe has filed a "good faith" lawsuit in Federal court, the State raised an 11th Amendment defense, and the Federal court dismissed the case. These *Seminole*-fix regulations, further provide that the Secretary may appoint a mediator to assist the Tribe and the State in resolving outstanding issues, and provides timeframes for possible issuance of Class III gaming procedures if no agreement may be reached.

NIGA and its Member Tribes firmly believe that the Secretary's regulations on this issue fully reflect the intent of Congress in enacting the IGRA. Senator McCain stated at the time of the passage of the Act:

I would like to serve notice that I, Senator Inouye, Senator Evans, and other members of the Senate Select Committee on Indian Affairs will be watching very carefully what happens in Indian Country. If the states take advantage of this relationship, the so-called compacts, then I would be one of the first to appear before my colleagues and work to repeal this legislation because we must ensure that the Indians are given a level playing field that are the same as the states in which they reside and will not be prevented from doing so because of the self-interest of the states in which they reside.

Senator John McCain, Cong. Rec. (Sept. 15, 1988). We call upon the Senate Committee to support and to ratify the Secretary's regulations to ensure that Tribes are treated with fairness in Class III Tribal-State compact negotiations. This Committee never intended the States to have a veto power over the compacting process.

The Regulation of Indian Gaming

Indian gaming is the most highly regulated form of gaming in the Nation. Tribal gaming is subject to regulation from three jurisdictions: Tribal, State, and Federal. Tribes

² The Court stated, "[T]he Indian Commerce Clause accomplishes a greater transfer of power from the States to the Federal Government than does the Interstate Commerce Clause. This is clear enough from the fact that the States still exercise some authority over interstate trade but have been divested of virtually all authority over Indian commerce and Indian tribes."

regulate their own gaming operations through Tribal gaming commissions, Compliance officers, Tribal law enforcement officers, and Tribal courts. States regulate Tribal gaming at a level negotiated through tribal/state compacts. Certain Tribes, like the Las Vegas Paiute Tribe in Nevada, have negotiated compacts that provide for direct state regulation. In other states, like Arizona, the state regulators play a supportive oversight role and work closely with tribal regulators to ensure the integrity of Indian gaming.

The National Indian Gaming Commission (NIGC) is the primary regulator at the federal level, providing a background level of oversight, and reviewing the licensing of gaming management and key employees, management contracts, and tribal gaming ordinances. The NIGC also monitors Class II gaming under the Act. In addition, the NIGC has established Minimum Internal Control Standards (MICS) for Indian gaming, based on New Jersey and other gaming standards, and Tribal Governments have actively complied with the MICS. The MICS address audits, cash and credit procedures, surveillance, electronic data processing, gaming devices, bingo, pull-tabs, card and table games, and pari-mutuel wagering.³ In addition, the Secretary of the Interior oversees the Tribal-State compact process, reviewing and approving compacts provided that they are consistent with the Act and the Federal trust responsibility.

In 1994, Congress acted to protect Indian gaming through the Money Laundering Suppression Act, which applies the Bank Secrecy Act's protective provisions to Indian gaming operations. Under the Act, tribal operations report currency transactions in excess of \$10,000 to the Department of Treasury's Financial Crimes Enforcement Network (FinCEN). FinCEN is the Federal Agency charged with preventing money laundering. NIGA has worked actively with FinCEN to ensure that Indian Tribes have the most up-to-date information on how to prevent money laundering. FinCEN representatives met with NIGA's Member Tribes at our April 2001 Trade Show.

The FBI and the Justice Department also have responsibility for regulating Indian gaming. Under the United States Criminal Code, 18 U.S.C. § 1163, anyone who embezzles or steals money or property from an Indian gaming facility or any other Indian establishment is guilty of a federal felony, punishable by up to 5 years in prison.

The Indian Gaming Regulatory Act recognizes that Indian Tribes will serve as the primary regulators of Indian gaming. Tribes serve as the daily on-the-spot regulators of Indian gaming. Over the past decade, Tribes have developed world-class regulatory systems. In 1998, a NIGA survey indicated that 147 Tribes engaged in gaming spent over \$120 million on gaming regulation. NIGA is in the process of conducting a survey of current tribal regulation of Indian gaming. To date, with a regression analysis based on 36% of tribal gaming commissions responding, we estimate that Tribes spend in excess of \$150 million on gaming regulation. We hope to complete our survey by September, and will provide the Committee our survey results at that time. However,

³ Right now, the NIGC is working with an Advisory Committee to update these regulations to take into account new technological developments.

data available today shows that Tribal gaming regulation is on par with or exceeds the resources spent on gaming regulation in New Jersey and Nevada.

According to a 1998 GAO Report, Nevada employed about 400 regulatory personnel with a budget of \$22 million to regulate 2,425 gaming locations (80% with less than 15 machines). New Jersey spent about \$54 million to employ 700 regulatory employees to cover 12 major casinos, with over 35,000 machines and 1,400 table games. U.S. GAO Report, Casino Gaming Regulation: The Roles of 5 States and the National Indian Gaming Commission, (May 1998).

By way of comparison, 15 Arizona Indian Tribes operate medium-sized facilities, with between 400 to 1,500 machines. These Tribes invest \$21 million annually to employ over 200 tribal regulatory personnel. Arizona Tribes pay an additional \$5 million for state regulation to the Arizona Department of Gaming, which employs 60 state regulatory staff. The Oneida Nation of New York spends approximately \$9 million on regulation for its gaming operation, of which \$3.3 million goes to the State of New York as part of their regulatory presence.

Against this background of comprehensive regulation, the FBI and the Justice Department have repeatedly reported that there has been no substantial infiltration of organized crime on Indian gaming. After two years of public hearings held throughout the Nation, the National Gambling Impact Study Commission confirmed the Justice Department's finding.

National Indian Gaming Commission Staffing

The National Indian Gaming Commission has more than doubled its personnel over the last three years. With 77 employees and 5 field offices and an annual budget of \$8 million, the National Indian Gaming Commission is fully equipped to handle its key responsibilities: approving tribal gaming ordinances, reviewing tribal management and key employee licenses, reviewing management contracts, and providing secondary oversight of Indian gaming.

Of course, the NIGC must recognize, as Congress did, that Indian Tribes retain their inherent rights "to regulate gaming activity on Indian lands if the gaming activity is not specifically prohibited by Federal law and is in a State, which does not, as a matter of criminal law and public policy, prohibit such activity." 25 U.S.C. § 2701(5). Tribal gaming regulators stand ready to assist the NIGC, and should be respected. Therefore, when the NIGC receives information about a potential violation of the statute or NIGC regulations, the Commission should notify the tribal gaming regulatory body and defer to the tribal regulatory process. Exhaustion of tribal regulatory processes provides respect for tribal sovereignty and avoids unnecessary duplication of efforts at the Federal and tribal level.

NIGC Minimum Internal Control Standards

As noted above, the NIGC has promulgated regulations that set Minimum Internal Control Standards (MICS) for Indian gaming, based on New Jersey, Nevada, and other gaming standards. Tribal Governments have actively complied with the MICS. The MICS address audits, cash and credit procedures, surveillance, electronic data processing, gaming devices, bingo, pull-tabs, card and table games, and pari-mutuel wagering.

A number of Indian Tribes have pointed out that the IGRA provides for the NIGC to exercise “continuous oversight” of Class II gaming. In contrast, Congress intended Class III gaming to be regulated pursuant to Tribal-State gaming compacts. Because of this fact, the relationship between the NIGC and tribal regulatory systems over Class III gaming is not clearly addressed. Regardless, Tribes have complied with the MICS in good faith and have developed world-class regulatory systems that fully comply with those detailed requirements.

The NIGC must work closely with tribal regulatory bodies to ensure that tribal sovereignty is respected. The Commission should defer to tribal regulatory systems in the first instance to avoid unnecessary duplication of efforts. The NIGC must also acknowledge that Tribal-State Class III gaming compact requirements are the primary means of regulating class III gaming, and the MICS are secondary. In sum, the NIGC must recognize the legitimacy and efficacy of tribal regulatory systems.

The NIGC is currently undertaking a review of its MICS in conjunction with an advisory committee to ensure that the regulations are effective without unduly burdening Indian gaming operations. The MICS should expressly recognize tribal regulatory systems as the primary regulators of Indian gaming. The NIGC should promulgate minimum standards that set forth principles for sound regulation at a level of generality that provides protections for Indian gaming operations without interfering with tribal regulatory making authority. The MICS should also distinguish between Class II and Class III operations, which are different in scope and complexity and which receive different statutory treatment.

NIGC Proposed Environmental Regulations

In our view, the NIGC should stay close to its core mission of regulating Indian gaming. Recently, the Commission proposed environment, public health and safety regulations that it plans to impose on Indian gaming operations. IGRA’s reference to these standards is set forth in a provision concerning NIGC approval of tribal gaming ordinances.

Tribal governments already have ordinances that protect the environment, public health and safety. Tribes work with the EPA on environmental issues, HHS’ Indian Health Service on health issues, and the Departments of the Interior and Justice on public safety issues. There is simply no need for the NIGC to develop another federal bureaucracy in these areas. In fact, the EPA submitted comment to the NIGC to explain

that it already works with Tribes on environmental issues and there is no need to duplicate efforts. If anything, the NIGC should sit down with Tribes to develop voluntary guidelines that tribal government agencies can implement directly.

Class II Gaming and Technologic Aides

In its initial definitional regulations under the IGRA, the NIGC improperly defined “electronic or electromechanical facsimile” as any gambling device as defined in the Johnson Act, 15 U.S.C. § 1171(a)(2) or (3). Several Federal appellate courts have made clear that the NIGC definition is inconsistent with the terms of the IGRA. In *Diamond Games v. Reno*, the U.S. Court of Appeals for the District of Columbia Circuit stated:

[T]he Commission’s IGRA regulations provide no assistance in interpreting the statute. Boiled down to their essence, the regulations tell us little more than that a Class II aide is something that is not a Class III facsimile.

230 F.3d 365, 369 (D.C. Cir. 2000). In light of this consistent line of decisions from the federal courts,⁴ the NIGC wisely decided to revise its regulatory definitions to eliminate the reference to the Johnson Act in the definition of “electronic facsimile.”

Reference to the Johnson Act in this context was clearly mistaken. Clearly, Congress intended Indian Tribes to have reasonable latitude to employ technologic aides to Class II gaming, such as bingo terminals or paper pull-tab dispensers, so long as the game remained essentially a Class II game. As this Committee noted in enacting the IGRA, Tribes must have “the opportunity to take advantage of modern methods of conducting class II games and the language regard technology is designed to provide maximum flexibility.” The NIGC’s effort to correct its earlier mistake should be supported.

Finally, as we stated in our comment to the NIGC, “NIGA supports this proposal as a proper first step that would help clarify and stabilize this area of gaming law, and remove the conflict between the Commission’s regulation definitions and the purposes of the Indian Gaming Regulatory Act (IGRA).”

Overview: Indian Gaming Works for America

The results achieved by Indian Tribes through gaming have been amazing. Indian gaming generates gross revenues of approximately \$9.6 billion annually for tribal

⁴ See generally *Diamond Game Enterprises, Inc. v. Reno*, 230 F.3d 365 (D.C. Cir. Nov. 3, 2000); *United States v. 162 Megamania Gambling Devices*, 231 F.3d 713 (10th Cir. Oct. 31, 2000); *United States v. 103 Electronic Gambling Devices*, 223 F.3d 1091 (9th Cir. Aug. 29, 2000).

governments. From this gross revenue figure, Tribes pay for expenses such as payroll, management costs, marketing, public relations, capitalization costs, tribal, state, and Federal regulatory fees, revenue sharing agreements, and other expenses. Indian gaming means jobs, economic activity, and economic development for Indian Tribes and their neighbors.

250,000 Jobs

Indian gaming has created 250,000 jobs nationwide for Indians and their non-Indian neighbors. These jobs are terribly important for Indian country. In some of our rural areas, like South Dakota, the state generally has an unemployment rate that is below the national rate of 4.5%, yet, on rural Indian reservations, the unemployment rates are 60% or higher. On rural reservations, Indian gaming jobs address these unbearably high unemployment rates. For example, in North and South Dakota, Indian gaming has created about 5,000 jobs and Indians hold about 75% of those jobs. Many of those folks never had a job opportunity before. In my own state of Wisconsin, Indian gaming has proven to be the best welfare to work program: Indian gaming has caused welfare rolls to drop dramatically in rural counties near gaming establishments. The Wisconsin Department of Health and Human Services reported in 1996 that welfare payments dropped by over 28% from 1990 to 1995 in Wisconsin counties with Indian gaming. That represented a decrease of over \$11 million in Wisconsin welfare payments.

Tribal Infrastructure and Governmental Programs

IGRA mandates that Indian gaming revenue be used only for tribal governmental services, community and economic development, general tribal welfare, charitable causes, and aid to neighboring governments. Using tribal gaming revenue, Indian Tribes are developing their governmental infrastructure by building schools, health clinics, water and sewer systems, and roads. Indian country has frequently been left behind in terms of infrastructure and community development, and Tribes are using their gaming revenue to fund basic community infrastructure. The Gila River Tribe built a new water system. The Ak-Chin Indian Community is building new reservation housing. The Cabazon Band established a tribal utility authority and Spirit Lake built a wind energy generator. Fort McDowell built a police substation. The Sycuan Band of Kumeyaay built a new community library, and the Southern Ute Tribe built towers for its public radio station.

Education is a top priority for Tribes, and Indian gaming revenue is frequently used to build education facilities. My Tribe, for example, built our school in the shape of a Turtle with our creation story inscribed on its walls, so our students can learn our language and culture as they work to master basic courses such as math, science and literature. The Mille Lacs Band of Ojibwe in Minnesota have built two schools. Mille Lacs requires their students to be fluent in the Ojibwe language by the time they graduate from high school.

Health care is another important issue in Indian country, and many of our member Tribes have invested gaming revenues in health care infrastructure. Saginaw Chippewa

in Michigan, for example, built a 50,000 square foot health facility for tribal members and employees. Oklahoma Choctaw built a new hospital. The Cachil Dehe Band of Wintun Indians built a new medical and dental facility. Shakopee Sioux funded a new family birthing center. The Gila River Tribe in Arizona recently opened a new dialysis center to deal with the highest rate of diabetes in the world. And the Tesuque Pueblo also opened a wellness center to help its members prevent diabetes.

Tribal gaming revenues also fund education, childcare, health care, elderly nutrition, and police and fire protection programs. For example, the Rosebud Sioux Tribe funds child care, so mothers can work, and because Rosebud is located in one of the poorest counties in the Nation, the Tribe appropriates funds for new school clothes for needy children every September. Indian gaming is funding some very basic needs. The Sandia Pueblo in New Mexico funds an in-home elderly hospice care program for its elders and after school programs for its children. The Southern Ute Tribe funds emergency medical services. The Miccosukee Tribe funds its police force, and the Fort McDowell Tribe funds a legal services program for tribal members. The Tohono O'odham Nation funds a drug interdiction program along its border with Mexico.

Building Sound Tribal Economies

Through gaming, Tribes beginning to diversify their economies. Indian gaming has given tribes access to a necessary ingredient for economic development that's been lacking before: CAPITAL! Tribal casino profits are being invested directly into on-reservation shopping centers, recreation parks, facilities for producing and exporting non-gaming related products and services. Many Tribes have developed hotels, RV parks, gas stations, restaurants, convention centers, movie theaters, retail centers, and golf courses. The San Manuel Band is building a bottled water plant. The Cabazon Band built a tire recycling facility that will process 2 million tires this year. The Viejas Band built an outlet mall. The Cachile Dehe Band of Wintun Indians has established an agriculture program that provides jobs to tribal members and migrant workers. Mille Lacs created the Small Business development program to provide technical assistance, training and loans to Indian entrepreneurs.

More importantly, the "Second Wave" of non-gaming related businesses that are less dependent upon gaming customers has begun. This wave emphasizes off-reservation and international markets.

Indian Tribes are Good Neighbors

Indian gaming also benefits neighboring communities. In upstate New York, an air force base was closed with a loss of over 2,000 jobs. The Oneida Nation outside of Syracuse, New York opened its casino soon after and later added a hotel, restaurants, and an award winning golf course, creating over 3,000 jobs. After a large ship manufacturing plant closed in northern Connecticut with a loss of 12,000 jobs, the Mashantucket Pequot Tribe opened its Foxwoods Casino and Resort, which created 14,000 area jobs. Nationally, non-Indians hold 3 of 4 jobs created by Indian gaming. Non-Indians who

hold these jobs appreciate the full-time positions. And, our Indian gaming patrons, both Indian and non-Indian, appreciate the entertainment and services at our facilities. It means a lot to a rural community in Louisiana, Minnesota, or New Mexico to have an entertainment outlet, which may include a hotel, restaurant, events center, and a golf course.

NIGA's Member Tribes work with neighboring communities to defray the costs of increased traffic brought about by gaming facilities under agreements with neighboring jurisdictions. For example, the Mashantucket Pequot and Mohegan Tribes in Connecticut pay Connecticut over \$300 million annually under a revenue sharing agreement and the state then distributes about half of these funds to local governments. My own Tribe, the Oneida of Wisconsin, has government services agreements with our local governments, which I helped negotiate.

Moreover, although Indian Tribes as governments are not taxable entities, they generate substantial Federal, State, and local revenue through payroll, social security, and other taxes. A 1999 industry study by the Evans Group reports that:

Federal tax receipts, based on the rise in receipts from social insurance taxes, personal income taxes, and corporate income taxes, plus the decline in unemployment benefits, rose by over \$3.6 billion in 1998 because of Indian gaming.

Indian gaming casinos generated more than an additional \$1.0 billion in fees and related revenue sharing payments to state governments in 1998.

Evans Group, The Economic Impact of Indian Casino Gaming, (1999).

NIGA also recently did a study of charitable giving by Indian Tribes. We found that Indian Tribes gave over \$68 million to charity. The Shakopee Sioux, for example, donated over \$2 million to its county government neighbors for road construction during the last two years. The Pechanga Band in California announced that it is paying its local government neighbor over \$7 million for road construction. The Agua Caliente Band recently donated two fire trucks to its local government, Palm Springs. Other Tribes have funded hospitals, education programs, and other governmental projects.

Indian Gaming Produces Benefits Throughout Indian Country

There are many Indian Tribes that do not engage in gaming. Some, like many of the Native Villages of Alaska and the majority of Tribes in Nevada, do not have the market access necessary to make gaming an viable economic alternative. Others, like the Navajo Nation, have chosen for cultural reasons to forego gaming. Yet, it is not fair to say that these Tribes have not benefited from Indian gaming.

Many Indian Tribes use gaming revenues to assist other Tribes. For example, the Forest County Potawatomi Tribe assists the Red Cliff Band and the Sokoagan Band of Chippewa on an ongoing basis, and underwrites Milwaukee Indian school for the benefit of all Indians in the Milwaukee area. The Mashantucket Pequot Tribe is working with a consortium of Indian Tribes to start a Native American development bank. The Mohegan Tribe has generously assisted other Tribes in times of trouble. The Shakopee Sioux Tribe has frequently assisted its sister Sioux Tribes. Under compacts negotiated in California, California Tribes engaged in gaming have created a fund to assist non-gaming Tribes and Arizona Tribes are considering another approach to assist non-gaming Tribes, including the Navajo Nation.

In addition, NIGA has worked with non-gaming Tribes and Indian economic development associations to promote business between Indian gaming operations and other Indian enterprises. At our most recent trade show, the Yakima Indian Nation offered their renowned apples for sale to Indian casinos, the Northwest fishing Tribes displayed their salmon products, and the InterTribal Bison Cooperative displayed their bison products. Indian gaming provides economic opportunities that benefit Indian country broadly.

Nevertheless, as this Committee knows, Indian gaming is not a panacea. The Census Bureau reports that 700,000 Indians live in poverty, and that includes 43% of American Indian and Alaska Native children under the age of 5 who live in poverty. Less than 50% of our high school students graduate, and we continue to suffer epidemic problems of heart disease, liver disease, and diabetes.

After two hundred years of genocide, abuse and neglect, Indian gaming is only beginning to rebuild our communities, and as one senior Senator familiar with Indian country told us recently, “Not every Indian will find a job through Indian gaming.” So, the United States must continue to work with Indian Tribes to help make Indian lands “livable” homes as it has repeatedly promised in Treaties and Statutes. In short, the Federal Government must continue to honor its trust responsibility to promote tribal economic development through Indian gaming and other means.

Conclusion

The Indian Gaming Regulatory Act has generally proved to be workable for Indian country. Yet, the Supreme Court’s *Seminole* decision has interfered with the operation of the Class III Tribal-State Compact process, so Congress should support Interior’s regulations for Secretarial procedures in lieu of a compact.

Indian gaming is the most highly regulated form of gaming in the Nation, and Tribes have developed world-class regulatory systems deserving of respect. Overall, Tribes spend more than \$150 million on regulation, and Congress should acknowledge the capacity and effectiveness of tribal regulatory systems. The NIGC is adequately funded to perform their statutorily delegated Federal oversight role and should not attempt to become the primary regulator of Indian gaming, intruding on tribal self-government. The NIGC should adhere to its core mission. The Commission’s proposed Environment, Public Health and Safety Regulations should be revised to serve as voluntary guidelines rather than regulations, and this effort should be coordinated with Tribes and the EPA to avoid duplication of services. The NIGC’s efforts to correct its Class II gaming technology regulations should be supported.

Perhaps the most important point is that Indian gaming has served to build strong tribal governments, and promote tribal economic self-sufficiency. Tribes now have schools, health clinics, water systems, and roads that exist only because of Indian gaming. Tribes have a long way to go because too many of our people continue to live with disease and poverty, but Indian gaming offers hope for the future.

Appendix I

National Indian Gaming Association
Testimony of Ernest L. Stevens, Jr., Chairman

Survey of Tribal Gaming Commission Budgets *Preliminary Results*

During the last four weeks, the National Indian Gaming Association conducted a comprehensive budget survey (attached) of Tribal Gaming Commissions. 69 responses were received, representing 37% of Indian Gaming Commissions nationwide. The National Indian Gaming Association plans to continue to collect data using this survey and will present comprehensive results to the Committee at a later date.

Major Findings: Based upon a conservative analysis of the surveys received, we estimate that Indian Gaming Nations spend at least \$150 Million per year on regulation. This compares to \$27 Million spent to regulate gaming in Nevada and \$34.4 Million spent to regulate gaming in New Jersey. In addition, Tribes pay an estimated \$30 million (based on analysis of survey data; reporting Commissions give \$20 million annually) to states for regulatory services each year. The table below provides a comparison of these figures.

Comparison of Tribal Gaming to Nevada and New Jersey Gaming Industries

	Indian Gaming	Nevada	New Jersey
Total Gaming Revenue 2000 (Merrill Lynch Study)	\$9.9 Billion	\$9.6 Billion	\$4.3 Billion
% of Commercial, Riverboat Gaming	28%	27%	12%
Commission Budget	\$150 Million estimate (\$79 Million with 37% of Commissions reporting)	\$27 Million	\$34.4 Million
Commission Employees	1,306	432	376
Regulatory Fees to States	\$30 Million estimate		
Impact Fees to Local Communities	\$19 Million		
Federal Regulation (National Indian Gaming Commission fees – Industry total)	\$8 Million	\$0	\$0

Appendix II- NIGA Testimony

SUMMARY OF NATIONAL, REGIONAL AND TRIBAL STUDIES

The purpose of the Indian Gaming Regulatory Act is to promote "strong tribal government, economic development, and tribal self-sufficiency," and to provide a strong regulatory framework to protect Indian gaming as a means of generating tribal government revenue.

The Act has been a great success. The following is a brief overview of some of the studies that demonstrate just how successful the Indian Gaming Regulatory Act has been in promoting jobs and economic opportunity.

"The Economic Impact of Indian Casino Gaming."

The Evans Group, May 1999.

- Direct Employment: 73,887 (casino only) 96,248 (total w/ ancillary)
- Indirect Employment: 43,412 (casino only) 56,204 (casino + ancillary)
- State Payroll Tax Revenue: \$1,019,800,000.00
- Federal Payroll Tax Revenue: \$3,723,000,000.00

"Saginaw Chippewa Economic Impact."

Zogby International, 2001.

- Direct Employment: 3,905
- Indirect Employment: 4,818
- Payments to Local Community: \$7,500,000.00
- State Payroll Tax Revenue: \$13,300,000.00
- Federal Payroll Tax Revenue: \$28,900,000.00

"An Analysis of the Economic Impacts of Indian Gaming in the State of Arizona."

Udall Center for Studies in Public Policy, June 2001.

- Direct Employment: 9,324
- Indirect Employment: 14,784
- Native American Employees (%): 43%
- Non-Native Employees (%): 57%
- Payments to Local Community: \$0.00
- State Payroll Tax Revenue: \$4,006,000.00
- Federal Payroll Tax Revenue: \$24,155,000.00

“The Economic Impact of the Mashantucket Pequot Tribal Nation Operations on Connecticut.”

Connecticut Center for Economic Analysis, University of Connecticut, November 28, 2000.

- Direct Employment: 12,934
- Indirect Employment: 28,429

“The Economic Impact of the Mississippi Band of Choctaw Indians and Their Affiliated Enterprises on the State of Mississippi.”

Center for Community and Economic Development, The University of Southern Mississippi and The Goodman Group, Inc., June 15, 1999.

- Direct Employment: 5822
- Indirect Employment: 6290
- Native American Employees (%): 38.5%
- Non-Native Employees (%): 61.5%
- State Payroll Tax Revenue: \$4,844,800.00

“Indian Reservations and the New Mexico Economy.”

The New Mexico Indian Reservation Economic Study Group, 1999.

- Direct Employment: 4671
- Indirect Employment: 6594
- Native American Employees (%): 35%
- Non-Native Employees (%): 65%
- State Payroll Tax Revenue: \$64,700,000.00

“Response to the National Gambling Impact Study Commission and Analysis of Colville Gaming.”

Confederated Tribes of the Colville Reservation, June 1999.

- Direct Employment: 421
- Native American Employees (%): 51.5%
- Non-Native Employees (%): 48.5%
- Federal Payroll Tax Revenue: \$1,732,000.00

“Economic Benefits of Indian Gaming in the State of Kansas.”

GVA Marquette Advisors, 1999.

- Direct Employment: 1718
- Indirect Employment: 1441
- State Payroll Tax Revenue: \$928,600.00
- Federal Payroll Tax Revenue: \$3,438,600.00

"South Dakota Tribally Owned Casinos: Opportunities and Benefits."

Great Plains Indian Gaming Association, May 2001.

- Direct Employment: 1500
- Native American Employees (%): 73.2%
- Non-Native Employees (%): 26.8%

"A Boon to Louisiana's Southwest: The Economic Impact of Grand Casino Coushatta."

Loren C. Scott & Associates, Inc., January, 2001.

- Direct Employment: 2847
- Indirect Employment: 1964
- State Payroll Tax Revenue: \$4,358,104.00
-

"Oneida Indian Nation Economic Impact Study."

Zogby International, November 30, 1999.

- Direct Employment: 2982
- Indirect Employment: 2179
- State Payroll Tax Revenue: \$1,629,311.00
- Federal Payroll Tax Revenue: \$6,330,185.00

"An Economic and Social Impact Study: A Report for the Confederated Tribes of Siletz Indians."

ECO Northwest, 1999.

- Direct Employment: 805
- Indirect Employment: 121
- Payments to Local Community: \$326,819.00

"Economic Impacts of The Shakopee Mdewakanton Sioux (Dakota) Community on Scott County."

Prepared for the Shakopee Mdewakanton Sioux (Dakota) Community, December 2000.

- Direct Employment: 4688
- Native American Employees (%): 18%
- Non-Native Employees (%): 82%
- Payments to Local Community: \$200,000.00
- State Payroll Tax Revenue: \$3,572,000.00
- Federal Payroll Tax Revenue: \$12,500,000.00

Appendix III NIGA Testimony

Legal Giving Structure

- 21% - Have a Tribal Fund or Foundation
- Operation of Legal Giving Structure
- 70% - Have Designated Staff
- 30% - Monitored by Formal Review Procedures
- 30% - Governed by By-Laws

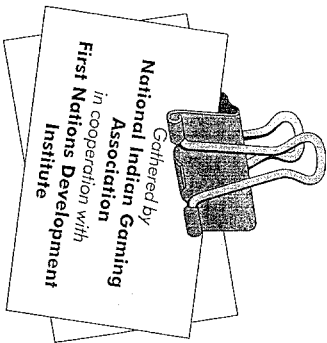
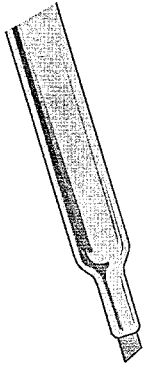
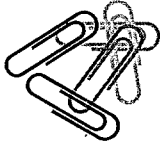
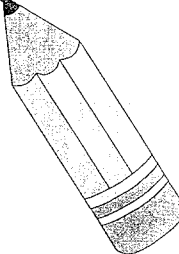
33% - Utilized Legal Advice to guide Charitable Giving

14 tribes use an advisor (33%)

Wish list of Additional Information submitted by survey participants

- Would like to see other Tribes' giving structure and operation
- More information on poverty
- Establishing contribution levels
- Rating Systems for Projects
- Lobbying and market information
- Impact of Indian tribes and businesses
- What type of organizations do other tribes have
- Who uses the funds
- How other tribes give

of Indian Gaming Nation Charitable Giving



The full report will be available May 2001.

Background

This confidential survey was conducted by NIGA's Casino & Industry Relations Department in conjunction with the First Nations Development Institute. The data analysis is based upon 43 surveys from Nations who make charitable contributions. This represents 25% of NIGA Member Nations. The data is self-reported and has been utilized in the aggregate to protect privacy. Only publicly available revenue data was used in the analysis.

Major Findings: Indian Gaming Nations, representing 14% of the gaming sector give at least \$68 Million a year in charitable donations. 39% of the gaming industry, non-Indian, gives \$58 Million a year in contributions. We firmly believe that the Indian Gaming contribution figure is conservative.

"This should be sent up on 'The Hill' for their review and also the White House for the President to ponder especially when they are telling what Indian Country is doing wrong all the time."

Ken J. Jackson, Councilman, Saginaw Chippewa Tribe

Condensed Survey Results

Reasons for Tribal Giving

- 48% - Sharing and Reciprocity
- 31% - Bettering the Community Within the Tribe
- 7% - Bettering the Community Outside the Tribe
- 0% - Legislative/Compact Mandate

Amount of Giving

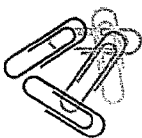
Based upon the survey responses and correlation with publicly available data on casino revenues (from 1988) we can establish a baseline of \$68 Million in annual giving. This is from reported data over and above any compact requirements.

Recipients of Tribal Giving

- 38% - Non-Indian Organizations
- 23% - Indian Organizations
- 11% - Indian Organizations not affiliated with tribe
- 10% - other

Recipients of Tribal Giving - Causes

- % of reporting Nations give to:
- 69% - Community and Local Efforts
- 10% - Statewide Efforts
- 6% - National Efforts
- 2% - Other
- 0.27% - International Efforts



Types of projects and organizations

- % of reporting Nations give to:
- 100% - Youth Projects
- 97% - Schools
- 84% - Elder Projects
- 74% - Health
- 74% - Sports
- 64% - Arts and Culture
- 64% - Emergency Relief
- 59% - Community and/or Economic Development Organizations
- 55% - Language Preservation
- 50% - Relationship Resources
- 17% - Other projects (sponsorships, burials, environmental causes)

Process of Giving

- Over 1/3 of the respondents accept both unsolicited and solicited requests.
- 36% - Accept both unsolicited and solicited requests
- 36% - Accept only unsolicited requests
- 24% - Accept only solicited requests

- Almost 1/2 make gifts on an "as asked" basis.
- 73% - Make charitable gifts on an "as asked" basis
- 29% - Make charitable gifts on a monthly basis (29%)
- 4% - Make charitable gifts on a quarterly basis (4%)
- 2% - Make charitable gifts on an annual basis (2%)

Processing Funding Requests

- Over 60% processed requests to the tribal council by agenda item.
- % of Nations reporting use the following funding request processing options
- 64% - Request to Council by Agenda Item
- 43% - Request to Council by Application
- 29% - Request to Appointed Committee by Application
- 27% - Processed by Tribal Department by Application
- 17% - Processed by "other" means
- 12% - Processed by Appointed Committee by Agenda Hearing
- 10% - Processed by Tribal Department by Request and Hearing

Funding Budget

Almost 80% of the respondents made fund grants through the tribal council, while over 1/2 fund grants through the casino.

- 79% - Tribal Council
- 55% - Casino
- 24% - Other sources - Community & Social Service Departments
- Foundation Board
- Tribal Governor
- Community Relations Committee
- Accounting Department
- Staff Member of Tribal Administration
- Donation Review Committee
- Tribal Foundation
- Tribal Tax Account
- 12% - Tribal Marketing Office
- 7% - Tribal Economic Development Office

TRIBAL GOVERNMENTAL GAMING
A Story of Community Partnership;
A Story of Self-Reliance

...Tribal officials are quick to point out that they contributed more than \$1 million to local charities last year. In the past three years, they say, they have granted Chumash students \$1 million in scholarships and now have a greater percentage of their young people attending college than any other California tribe. "We're giving them opportunities the elders never had," [Santa Ynez Chumash Chairman Vincent' Armenta says. The unemployment rate among the Santa Ynez Chumash is zero.

"Casino Fuels Prosperity, Fears," Steve Chawkins, *Los Angeles Times*, May 20, 2001.

Barona Casino made the single largest donation to any arts group by an Indian tribe when it made a \$200,000 donation to the San Diego Symphony's Summer Pops...The local chapter of the Arthritis Foundation received its single largest donation – \$40,000 – from [the] Sycuan [Tribe].

"Gaming Makes Indian Contributions Possible," *San Diego Business Journal*, July 31, 1995.

Indian gaming has had a very positive impact on reservation residents, for example: an 18 percent decrease in unemployment rates, a 29 percent decline in AFDC payments, a 47 percent decline in tribal welfare programs, a 1,000 percent increase in tribal operating budgets, and creation of important services such as the new fire department and emergency services on the Gila River Indian Reservation.

"Gaming Helps Indians," *Arizona Republic*, May 27, 1995.

The tribe has also made donations, which have ranged from a few hundred dollars for gatherings at other reservations, to a recently approved \$20,000 in-lieu-of-taxes style payment to the city of Prior Lake. Donations to non-Indian organizations also include more than \$24,000 raised this year during the annual Muscular Dystrophy Association Labor Day Telethon, a promotion that cost an additional \$25,000 in prizes and other expenses.

"Bingo Profits Give Minnesota Tribe a Chance to Give Something Back," Gary Harvey, *Minneapolis Star-Tribune*, January 7, 1990.

The Muckleshoot Indian Tribe will award \$187,857 to 28 local and regional organizations today as part of its annual program to share proceeds from its successful casino with the community. Recipients of the grants, which range from \$5,000 to \$35,000, include the Northwest Burn Foundation, Evergreen Spina Bifida Association, King County Search and rescue, Paratransit Services, Strategies for Youth, and the Susan G. Komen Breast Cancer Foundation/Race for the Cure at Husky Stadium. The Muckleshoot Charity Fund has contributed more than \$1.3 million since 1995.

"Muckleshoot Sharing its Profit with Organizations," *Seattle Post-Intelligencer*, July 1, 1999.

A big boost for the community fire departments has come from donations generated by Indian casinos. The Saginaw Chippewa Indian Tribe has given hundreds of thousands of dollars for trucks and other equipment in the Mt. Pleasant area. The Sault Ste. Marie Tribe of Chippewa Indians has done the same across the Upper Peninsula.

"State Volunteer Firefighters Post Help Wanted Sign," George Weeks, *Detroit News*, January 31, 1999.

The tribal council of the Tule River Indian Reservation and Eagle Mountain Casino have donated \$35,000 to seven local schools, a tribal college and children's educational programs. "Why were the local schools able to benefit today?" David Nenna, tribal administrator and spokesman asked at a reception on Tuesday. "Because the children are our future, not only from the reservation, but from the surrounding communities." Nenna said the donations were given by the council on behalf of the casino... "Last spring, the casino donated \$1,000 to our educational foundation. Today, they have donated over \$21,000 to various schools within the district plus to other organizations. This is a very generous act on the part of the reservation. It will be put to good use for the students," [said Dr. Jacob Rankin, superintendent for the Porterville Public Schools].

"Tule River Casino Donates to Education," Terry Bergfalk, *Fresno Bee*, September 20, 1998.

When Walt Francis needed help after his house burned in the Viejas fire, his friends and neighbors came through... Help came from big organizations such as the Viejas Indian Tribe, which donated \$50,000 to the American Red Cross for fire relief, and from Qualcomm, which gave \$25,000... Viejas, which narrowly escaped the fire at its onset, provided food for firefighters and evacuees, had employees volunteering in the emergency center, trucked relief supplies from El Cajon and converted one of its casino parking lots into a helicopter staging pad for the California Department of Forestry.

"Helping Hands Out in Force," Anne Krueger, *San Diego Union-Tribune*, January 6, 2001.

[Tribal Chairman Deron] Marquez said the San Manuel Band – which annually donates about \$1 million from its casino revenues to charities and community programs – is inundated with requests for donations.

"Indian Agency Eyes More Donations," Tim O'Leary, *Press Enterprise* (Riverside, CA), January 2, 2001.

Fifteen of the state's 21 Indian tribes are involved in gaming, generating hundreds of millions of dollars a year that are providing hope and opportunities for them. The new revenues are creating jobs for Indians, improving conditions on the reservation, and funding new businesses to generate income for the future... Now, just five years after Gila River opened the first of its two new casinos, unemployment has been cut from 40 percent to about 15 percent. Nearly 600 Gila River students are attending post-secondary schools around the country and around the world. An nearly all of them are on track to graduate, according to [Gila River Tribal Education Director Gilbert] Innis.

"Arizona's Tribes Use Casino Revenue to Provide Scholarships for every College-Bound Indian," Laura Laughlin, *Phoenix New Times*, December 28, 2000.

With the new opportunities made possible by gaming revenue have come a host of special efforts and programs aimed at preparing Indian students for college, easing their transition to campus and academic life, keeping them in school and helping them graduate. Among them, a new collaboration between Arizona's tribes and the three universities called the Arizona Tri-Universities for Indian Education. A first in the United States, the organization requires high-level Indian officials at each university to work with tribes to promote recruitment and retention of tribal university students. It was formed at the urging of the Fort McDowell Yavapai Nation, who made it a part of its new \$2 million scholarship program. **"Arizona's Tribes Use Casino Revenue to Provide Scholarships for every College-Bound Indian,"** Laura Laughlin, *Phoenix New Times*, December 28, 2000.

The [Fort McDowell Yavapai] tribe has used gaming funds to build 80 homes on the reservation, construct a new medical building, expand and improve a new recreation complex, open a day-care center and upgrade its elementary school. It has incorporated money management classes into its summer camps for children...Last year the Yavapai tribe, which has more than enough money to send all its own tribal members to college, did a remarkable thing. It began a scholarship program for other Indian students (and some non-Indians), giving \$1 million each year to be equally divided among the state's three universities.

"Arizona's Tribes Use Casino Revenue to Provide Scholarships for every College-Bound Indian," Laura Laughlin, *Phoenix New Times*, December 28, 2000.

...Gila River leaders decided to invest all the money [earned from tribal gaming] in badly needed infrastructure, like roads and plumbing, services like fire and police departments, economic development ventures, like the resort and golf course in the works, and two new day-care centers, until now not even necessary because of high unemployment rates. And they are offering full college scholarships to all tribal members.

"Arizona's Tribes Use Casino Revenue to Provide Scholarships for every College-Bound Indian," Laura Laughlin, *Phoenix New Times*, December 28, 2000.

[Louisiana] Gov. Mike Foster has signed a new compact with the Chitimacha Tribe, which operates the lucrative Cypress Bayou Casino in the governor's home area. Currently the tribe sends six percent [of its profits] to the state which relays it all to the parish, which in turn divides it up and pays local agencies. The tribe has indicated a desire to make those payments directly since the current method makes the payments appear to be an obligation rather than a donation..."From the state's perspective, the Chitimacha Tribe has [paid] well in excess on a voluntary basis [given] the direct impact the casino has had on the economy and the financial help to police and fire protection and other projects," [Attorney for the Governor's Office Patrick] Martin said. "They amount to a lot of money invested in the local community."

"Foster signs new compact with Chitimacha Tribe," Guy Coates, *Associated Press*, July 7, 2000.

...The 704-member Coquille tribe now emphasizes community partnership and continues to pursue self-reliance through economic development. The tribe donated 23 acres to the city of Charleston for a sports complex and helped purchase a police dog for Coos Bay, among its donations to area organizations.

"Tribe Invests in New Venture," Wendy Owen, *The Oregonian*, June 1, 2000.

When Viejas tribal Chairman Anthony Pico was a kid, his Christmastime rituals included sorting through the canned goods from the San Diego Food Bank. Until the late 1980s, Pico's Alpine-area tribe was a regular recipient of goods from the food bank and other charities. Now the Viejas Indian band donates \$40,000 a year to the food bank. Viejas and Barona are the agency's biggest sponsors by far.

"Tribe's Generosity Also Good Business," Chet Barfield, *San Diego Union Tribune*, May 17, 2000.

Figures from the three tribes show more than \$5 million in contributions since 1995 to local charities, agencies and nonprofit groups. Amounts range from \$500,000 for a hospital cardiac center to \$1,500 for a community college or \$150 for an East County Little League. Sycuan Vice Chairman Danny Tucker says the reason is simple: "We know what it's like to be poor"...The checks range from large to small" \$30,000 for a crime victim's group; \$5,000 for a golf tournament benefitting a youth charity; \$1,000 to the senior Olympics; \$100 to the El Cajon Pop Warner league. Recipients gush with gratitude. Take Carlos Barragan, who runs a youth boxing center in south Dan Diego. Since 1988, Barona has donated more than \$100,000 in cash, services and equipment to the program for low-income teens. The tribe has never asked for anything in return...Barona spokeswoman Kelly Jacobs said many of the donations are unheralded – a refrigerator for a homeless shelter; a big-screen TV for a nursing home.

"Tribe's Generosity Also Good Business," Chet Barfield, *San Diego Union Tribune*, May 17, 2000.

With its lawsuit against 15 landowners in eastern Illinois counties still unresolved, the Miami Tribe of Oklahoma is taking its case to the court of public opinion with a glossy new brochure. The brochure recounts the Miami Tribe's history and reiterates its claim that the 2.6 million acres sought in the lawsuit was never relinquished in an 1805 treaty. The tribe contends that it never surrendered land in the Wabash River watershed in east-central Illinois that now includes some of the state's richest corn and soybean fields and the University of Illinois.

"Miami Tribe hopes new brochure will win public support in Illinois," *Associated Press*, April 5, 2001.

Riverside Fire Chief Andy McAfee hit the jackpot with the Puyallup Tribe's Emerald Queen Casino last week without ever rolling the dice. On March 29, McAfee received a \$ 175,000 check from the tribe to buy a new fire truck - a big International with a 2,500-gallon water tank and a pumping capacity of 1,000 gallons a minute. When McAfee took the check, the Riverside fire district, staffed by volunteers at 56th Avenue East and River Road East, became the latest of a growing number of causes to have benefited from the casino's winnings...
"Casino profits go to many agencies," *The News Tribune*, April 6, 2001.

In January, the [Puyallup] tribe contributed \$ 50,000 toward a "fallen firefighters" memorial on Tacoma's Ruston Way waterfront. The tribe used casino profits to bail out the Daffodil Festival last year, contributing \$ 50,000 when organizers faced a last-minute shortfall, and a similar arrangement is in the works this year. For three years, the casino has helped fund the annual Fourth of July display over Commencement Bay, kicking in a total \$ 135,000. "The tribe is now a recognized presence in this community," said Stan Naccarato, a Tacoma community leader who assists the tribe in deciding where to make its contributions. "I have never, ever been told no" when he has suggested a possible donation, Naccarato said. "And (the tribe hasn't) tried to whittle down the amounts." Contributions last year included \$ 50,000 to fund the Taste of Tacoma, the annual Martin Luther King Jr. Birthday Celebration at the Tacoma Dome, Boys & Girls Clubs and the Tacoma Athletic Commission for Golden Gloves boxing, Naccarato said. That was in addition to the required 2 percent impact funding. The City of Tacoma received \$ 437,184 from those accounts last November to pay for fire and emergency services, street widening and for the prosecution of casino-related criminal cases. Pierce County received \$ 82,000 for trauma care and to help pay for an emergency system meant to warn people of volcanic mudflows from Mount Rainier.
"Casino profits go to many agencies," *The News Tribune*, April 6, 2001.

"I don't think gaming is our Utopia," [Dave Matheson, chief executive officer of gaming operations at the Coeur d'Alene casino] said. "It is merely our means to an end, which is a diversified economy, a tie to our cultural roots, and jobs and opportunity for all our people. That includes gaming things but also technology, manufacturing and tourism-type endeavors."
"Native American population grows; Increase in Kootenai, Benewah counties provides both challenges, opportunities," Julia Silverman, *The Spokesman-Review*, April 2, 2001.

The Agua Caliente Band of Cahuilla Indians donated more than \$1 million to 54 civic, community and non-profit groups in the Palm Springs area, including the Boys & Girls Club, the Cathedral City Fire Department and the Palm Springs Police Department. The donations, which bring the tribe's gifts to local organizations in the past five years to \$4.3 million, were issued at a ceremony attended by some 250 people.
"Agua Caliente Tribe Donates more than \$1 million," *Associated Press*, April 2, 2000.

Casinos get the attention these days but Oregon's tribal governments aren't gambling on gaming alone for their future. Instead, they are investing profits in a range of businesses while expanding health and other programs for tribal members. Though the Confederated Tribes of the Grand Ronde's Spirit Mountain Casino generated \$60 million in profits last year, tribal member Mike Larsen said it would be wishful thinking to think that profits will climb indefinitely. When they level off, "we'll have to leverage other areas of opportunity," he said. "You have to cover your bases by broadening and finding other income sources," said Sue C. Shaffer, chairwoman of the 1,000-plus-member Cow Creek Band of Umpqua Indians in Southern Oregon...The Spirit Mountain Community Fund recently hit the \$10 million mark in charitable giving. The fund, created in early 1997 with a portion of casino profits, benefits programs in 11 northwest Oregon counties...Also, the tribe is in the early stages of developing a natural gas-fired electrical generating plant with three partners, the city of Hermiston, Eugene Water & Electric Board and Williams Energy Marketing & Trading Company. The plant, which will generate about 500 megawatts of power, will be located on tribal property near Umatilla and could power up by late 2004...The tribe now employs about 1,000 workers, including those in the casino-resort businesses. That would make the tribe Umatilla County's second-largest employer behind the state of Oregon, Croswell said. **"State's Tribes Aren't Placing All Their Chips On Gambling," Cheryl Martinis, *The Oregonian*, April 4, 2001.**

The adjacent Santa Rosa Rancheria has a newly constructed health and education centers, a senior center and new tribal housing. All of it built with casino profits, said Creig Marcus, tribal administrator. But that's not all. The casino's success also has allowed the Tachi Yokuts to spread the wealth through such projects as two new fire engines for the Kings County Fire Department. Total price tag: \$400,000.

"Indians' Big Gamble has Big Payoff," John Ellis, *Fresno Bee*, March 18, 2000.

Mohegan Sun Casino has donated \$125,000 to Operation Sail 2000, making the American Indian Tribe one of the tall ships celebration's major sponsors...[Connecticut Gov. John] Rowland thanked Mohegan Tribal Chairman Roland Harris and the Tribal Council for taking the lead in corporate sponsorship. The tribe owns the casino. The tribe's donation comes at a crucial time. After it became apparent in January that fund-raising efforts for OpSail had fallen short of a \$2.1 million goal...

"Mohegans give Big Boost to OpSail," *Associated Press*, March 7, 2000.

The Muckleshoot Indian Tribe has donated a new van to the Tacoma Urban League...This is the tribe's second donation to the organization. In October, the League was among 21 Puget Sound groups to receive a cash award from the tribe. The van and an earlier \$5,000 donation were made possible by the tribe's casino revenues.

"Muckleshoot Tribe donates new van to Tacoma Urban League," Debby Abe, *News Tribune*, December 18, 1999.

The quality of life for Sandia Pueblo residents is helped by casino funds...At Sandia Pueblo, it could go for anything from supporting the operational budget of the Sandia Pueblo Health Center to fixing Jennie Holmes' plumbing and leaky roof. Pueblo spokeswoman Stephine Poston, standing between the Wellness Center and the new Health Clinic and across from the pueblo's renovated swimming pool, said, "None of this would be possible without gaming. If gaming goes, so does all this."... "Everything here is new, and most of it is paid for by gaming revenue," she said. "We had the pool when I was a kid. It's been renovated, and it's open from Memorial Day to Labor Day."... A home-improvement service for elders' homes is now offered by the pueblo's maintenance crews that take care of the pueblo's government buildings. The elders home program led to some 30 major repairs on the homes of pueblo elders in 2000, Bill Hovey, maintenance manager for the pueblo, said...Gaming revenue, Poston said, paid for 60 percent of the building cost of the Wellness Center, 100 percent of the building cost of the Health Clinic. It also paid for new locker rooms, a support building, pool renovation and operational costs of the pueblo's swimming pool. Beyond bricks and mortar, Poston said, gambling dollars pay for 100 percent of the pueblo's operational budget for the new Learning Center. At the center, classes in Tiwa, the pueblo's native language, are taught. The center also has Internet access for tribal members, a library and classrooms and meeting space...It was gaming revenues, she said, that paid for the entire cost of the new, 10,000-square-foot Health Clinic. The clinic includes a dental clinic, which serves Santa Ana Pueblo members as well, and some offices for social service programs such as substance abuse treatment and counseling.

"Gaming Aids Community," Patrick Armijo, *Albuquerque Journal*, June 28, 2001.

Gambling revenues turned into educational opportunities for North Idaho children as the Coeur d'Alene Indian Tribe donated 5 percent of its profits Wednesday. "The No. 1 priority of our tribe is education," said tribal Chairman Ernie Stensgar as he passed out 11 checks totaling \$794,000. The ceremony was held at the tribe's Worley casino. The tribe has been donating part of its gaming profits since 1993 after making an agreement with the state of Idaho in 1992 to donate to schools. Wednesday's checks bring donations to \$2.5 million over the past seven years. The first year, two checks were given out for \$3,000 each, said Bob Bostwick, the tribe's spokesman.

"Tribe Shares Gambling Proceeds," Alison Boggs, *Spokesman-Review*, January 20, 2000.

For the Puyallup Tribe of Indians, helping important community events happen is turning into a habit. Last week, the tribe's Emerald Queen Casino handed over a \$50,000 check to help cover expenses for the Daffodil Festival after the City of Fife reduced its tentative commitment of \$50,000 to \$5,000. The amount is the largest single donation in the festival's 67-year history. In 1997 and 1998, the Puyallups also kicked in \$50,000 to help fund the spectacular Fourth of July fireworks celebration over Commencement Bay in Tacoma. Through its generosity, the tribe has underscored an important point. Despite its sovereignty, the tribe is an integral part of the larger South Sound mosaic and concerned with issues that go beyond immediate tribal concerns.

"Puyallups to the rescue," *News Tribune*, March 7, 2000.

"We're grateful [for the Coeur d'Alene tribe's donation]," said George Asan, superintendent of the Plummer/Worley district, whose annual budget is \$4 million. "We've put the money back into the community and where our students would most benefit." In the past, Asan said, tribal money has been used to buy portable classrooms so elementary classes would have no more than 20 students. It also has been used to buy supplies ranging from computers and basketball uniforms to musical instruments and art equipment. The money has been used to purchase heaters, open day-care programs and start programs teaching the Coeur d'Alene Indian language.

"Tribe Shares Gambling Proceeds," Alison Boggs, *Spokesman-Review*, January 20, 2000.

"This is the best gift we've received in the 15 years I've worked at the library," said Paulina Freeburg, head librarian at the Plummer library, as she accepted a check for \$10,000 [from the Coeur d'Alene tribe]. "It will provide tremendous opportunities...Another librarian, Dianna Paulk of the Tensed Library, was so stunned when she saw the amount on her check that she just kept patting her heart and saying, 'Oh my goodness.'" [Tribal Chairman Ernie] Stensgar said the libraries had been included in the gift because of the importance of reading in a child's education. "We're investing in our region by investing in our children," he said. "The commitment and the dollars have already gone far beyond anyone's wildest dreams and the future promises even greater contributions." Adult and higher education opportunities also are included in the tribe's commitment. To date, more than \$1.5 million has been given to tribal members seeking college and adult education, beyond the donations to local schools. The tribe also has contributed more than \$1 million to infrastructure improvements in Plummer and Worley, including water, sewer work and road upgrades, Bostwick said.

"Tribe Shares Gambling Proceeds," Alison Boggs, *Spokesman-Review*, January 20, 2000.

Industry surveys have shown that after [Indian] casinos are introduced into a region, about one-fourth of the workforce are people who were previously unemployed or underemployed, more young people get higher educations, and charitable donations increase.

"Hancock Sees Casino as Way Out of Poverty," Bill Osinski, *Atlanta Journal and Constitution*, July 19, 1999.

[Eugene] Shawano, a former [Forest County Potawatomi] tribal official, stressed the importance of sharing the tribe's bounty with neighbors in Forest County and Milwaukee and avoiding a disabling bitterness over generations of deprivation and mistreatment he and other Potawatomi have suffered... "You've got to keep doing good things with a big heart," he said, noting donations the tribe makes to local groups and the tribe's reservation health and wellness clinic that serves non-Indian local residents as well as Potawatomi...It's clear from a tour of the Potawatomi reservation that the tribe has made huge strides in the barely more than half a decade since their casinos have provided significant income. There are new homes, a plethora of new programs, from day care to an alternative high school, apartments for the elderly and handicapped and an impressive museum and cultural center set to open this summer.

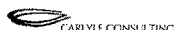
"Breaking Poverty's Grip," Steve Schultze, *Milwaukee Journal Sentinel*, May 30, 1999.

[Forest County Potawatomi tribal Chairman Phil] Shopodock touted the economic impact the jobs have had on the communities surrounding the reservation. Casino jobs in Carter pay, on average, \$20,000 a year and come with full health benefits. The tribe has become the county's largest employer. In low-wage Forest County, the tribal jobs have helped force down a chronically high unemployment rate and push up local wages by perhaps \$1 an hour, said Cliff Flannery, who runs a local construction business and a racetrack. The county jobless rate in April was 6.3%...Though casino money has done much for the tribe, Shopodock and other tribal leaders are pushing hard for things that can help the tribe remain self-sufficient over the long haul: education, health care, an expanded tribal legal system. He also is pushing for diversification in tribal businesses and is encouraging tribal members to start their own businesses.

"Breaking Poverty's Grip," Steve Schultze, *Milwaukee Journal Sentinel*, May 30, 1999.

When you understand how we view the world and our place in it, it's easier to appreciate why our casinos are so important to us. The reason we defend our business so fiercely isn't because we want to have something that others don't. The reason is because these businesses allow us to give back to others – to our People, our communities, and the Creator...We've opened new schools, new health care facilities, and new community centers where our children get a better education, where our elders get better medical care, and where our families can gather to socialize and keep our traditions alive. We've built new ceremonial buildings and new powwow and celebration grounds. We've renovated an elderly center, and plan to build three culturally sensitive assisted living facilities for our elders. We've created programs to teach and preserve our language and cultural traditions. We've created a Small Business Development Program to help band members start their own businesses. We've created more than 2,800 jobs for band members, people from other tribes, and non-Indians. We've spurred the development of more than 1,000 jobs in other local businesses. We've generated more than \$50 million in federal taxes, and more than \$15 million in state taxes through wages paid to employees. And we've given back more than \$2 million in charitable donations.

Marge Anderson, tribal chair, Mille Lacs Band of Indians, "Looking Through our Window," August 1, 1999.





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STATEMENT OF KELLER GEORGE
PRESIDENT OF THE UNITED SOUTH AND EASTERN TRIBES
ASSISTANT TO THE NATION REPRESENTATIVE, ONEIDA INDIAN NATION
CHAIRMAN OF THE ONEIDA INDIAN GAMING COMMISSION

Before the

SENATE COMMITTEE ON INDIAN AFFAIRS
JULY 25, 2001

Mr. Chairman, Mr. Vice-Chairman, and Members of the Committee, my name is Keller George. I am President of the United South and Eastern Tribes ("USET"), which is a confederation of twenty-four Indian nations ranging from Florida to Maine, South Carolina to Texas. In addition to being President of USET, I am an enrolled member of the Oneida Indian Nation in New York, where I serve as Assistant to the Nation Representative. I am also Chairman of the Oneida Indian Gaming Commission, the principal regulatory body that supervises gaming at Turning Stone Casino and Resort, an enterprise of the Oneida Indian Nation.

Thank you for this opportunity to appear before the Committee on Indian Affairs to present our view on a matter that is of vital importance to the members of USET.

Included among the members of USET are some of the largest gaming tribes in the United States, such as the Mashantucket Pequot, the Mohegan Tribe, the Oneida Indian Nation, the Mississippi Band of Choctaw, the Seminole Tribe and the Miccosukee Tribe.

In fact, of the twenty-four Indian nations that comprise USET, 15 engage in Indian gaming pursuant to the Indian Gaming Regulatory Act of 1988 ("IGRA" or "the Act"). Nine tribes conduct Class III gaming pursuant to a tribal-state compact, and six tribes engage in Class II gaming.

Benefits of Indian Gaming

Congress enacted the IGRA "to promote tribal economic development, tribal self-sufficiency, and strong tribal government." The Act is doing just that. The former

"Because there is strength in Unity"

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Assistant Secretary of Indian Affairs recently called gaming "the only federal Indian economic initiative that ever worked." He was absolutely correct. Indian gaming has served as a critical economic tool to enable Indian nations to once again be able to provide essential governmental services to their members, re-assert their sovereignty and promote the goals of self-determination and self-sufficiency.

Prior to the advent of Indian gaming, many Indian nations, while legally recognized as sovereign governments, were not able to provide basic, governmental services to their people. They had all of the legal attributes of sovereign nations, but many did not have the practical ability to be an effective government for their members. Consequently, despite a strong and proud tradition, Indian nations were caught in a two hundred year cycle of poverty.

At the Oneida Indian Nation, our children were facing a future consisting of food stamps, minimum-wage employment, and broken-down trailer homes. And our once expansive homelands in central New York were reduced over the years from 6 million acres to 32 acres.

In 1993, my Nation opened Turning Stone Casino. It was the first Indian owned and operated casino ever in New York. Because of Turning Stone, our once impoverished Oneida Nation is now the largest employer in Central New York. We employ approximately 3,000 people, of which 86 % are non-Native American.

The proceeds of our gaming operation go directly into providing essential governmental services to our members. The Nation has used these revenues to invest in dozens of Member programs, including an ambitious home ownership initiative, tuition assistance for everything from private schools to post-doctorate work, national health insurance for its Members and a local health clinic that serves all Native Americans in a six-county region.

We have paved roads, built affordable housing, constructed a cultural center, and created a children's and elder's complex that takes care of our most precious resources—our young ones and our seniors. In addition, we have a police force, a legal department, and a tribal court system.

Gaming has also allowed the Nation to take tremendous steps to reclaim the Oneida heritage. Oneida children are learning the language, ceremonies, dances and crafts that their grandparents and great-grandparents practiced. Equally important, this economic tool has allowed my Nation to once again reclaim a sense of pride—a benefit that is impossible to quantify.

Reclaiming a past heritage has been a priority for all USET members, and gaming proceeds have enabled some tribes to make tremendous gains in this area. A great example is in Connecticut, where the Mashantucket Pequot have used their gaming

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revenues to create a state-of-the-art, tribally owned-and-operated museum, which serves as a major resource on the history of the tribe. The 308,000-square-foot complex now serves as a major resource for scholars and the general public on American and Canadian Native histories and cultures.

Perhaps most important, gaming has allowed many Indian nations to get closer to the goals of self-sufficiency and self-determination. For example, since 1998, the Oneida Nation has turned back nearly \$5 million in federal tribal priority allocation money, funding we are entitled to from the U.S. Department of the Interior and the Bureau of Indian Affairs. Most of this money, at the Oneida Nation's request, has been reallocated to other needy tribes in New York State and throughout the eastern United States.

At the Oneida Indian Nation, our centuries' old goal of once again becoming self-sufficient is becoming a reality for this generation of Oneida people.

Benefits of Indian Gaming on Local Economies

The benefits that tribes are experiencing from gaming do not occur in a vacuum. Tribal gaming businesses have direct and indirect positive impacts on surrounding economies and public treasuries. Direct impacts come from the creation of additional jobs and spending. Indirect impacts are felt as the money from the tribal gaming operations is spent on payroll and goods and services.

At the Oneida Nation, Turning Stone Casino and Resort last year saw more than 3.5 million visitors. Total payroll grew to over \$63 million and payments to vendors exceeded \$123 million. In addition, capital expenditures equaled almost \$20 million.

To quantify the impact that the Oneida Nation has had on the Central New York economy, we commissioned a study by the research firm, Zogby International, which I am submitting to the Committee for the record. The Zogby study concluded that for every job created by the Nation, another four-tenths of a job is created elsewhere in the economy. This "multiplier effect" results in a total of 4,049 jobs in Central New York—nearly 3,000 created directly by the Oneida Nation and an additional 1,192 created indirectly as Nation employees spend their paychecks on local goods and services.

Tribal gaming operations also benefit other governments' treasuries. For example, roughly 90 percent of the Oneida Nation's employees are non-Native. This workforce paid more than \$9.5 million in federal and state income taxes in Fiscal Year 2000—an increase by the way of \$2 million over Fiscal Year 1997. When the multiplier effect is included, the Zogby study estimates that the Nation generated more than \$29 million in all federal payroll taxes. Nation employees also paid an estimated \$15.5 million to New York State in the form of income taxes and a host of other taxes and fees. And local governments received approximately \$2.4 million in tax revenues from Nation employees. When you include the multiplier effect, Zogby concluded that local

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treasuries received approximately \$4.2 million in tax revenues from jobs created by Nation enterprises.

These increased revenues have had a direct benefit on the local governments' bond ratings, which have helped our neighbors save money. Oneida County's municipal bond rating has been raised three times since the opening of Turning Stone Casino and Resort. In awarding a higher bond rating, Moody's Municipal Credit Report cited the "growing area of employment" within the Nation as a future source of economic strength. These improved ratings have substantially reduced interest rates for the counties. According to the Zogby study, the higher quality rating saved Oneida County taxpayers more than \$3.1 million in total borrowing costs for long-term bonds and short-term loans.

I am also submitting for the record an economic study on the economic impact of the Mississippi Band of Choctaw Indians, which was prepared by the University of Southern Mississippi. This study found that the Mississippi Band of Choctaw Indians is a major economic force in the State of Mississippi. The Choctaw, through their gaming and other enterprises, employ over 5,800 people, which puts them among the 10 largest employers in the state.

The Mississippi Band of Choctaw pays over \$97 million a year in wages to their employees. Of these employees, 2243 are Indian and 3,579 are non-Indian. The study concluded that the employees of the Mississippi Band of Choctaw pay approximately \$2.3 million in state income tax. In addition, the Choctaw's enterprises generate purchase over \$95 million a year in goods and services throughout 66 counties in Mississippi. I am submitting a copy of this study for the record.

In addition, as part of our efforts to be good neighbors, the Oneida Nation has made a number of special gifts to the local region. We recently spent \$7 million to build a much-needed water line for the town of Verona. Once the project was completed, we donated this line to the town. We donated \$350,000 to build a new town hall for Verona. And, since 1996, we have donated nearly \$2 million to seven local school districts as part of our Silver Covenant Chain grants.

USET strongly believes that Indian gaming can be not only an economic tool for our member tribes, but it can also be an economic catalyst for our surrounding neighbors in terms of additional jobs, new businesses, and increased tax dollars for local treasuries. In other words, Indian gaming can be a win-win situation for both the Indian nation and its neighbors.

As the Members of this Committee are aware, some have asserted, without substantiation, that Indian gaming is under-regulated, unsupervised, and ripe for infiltration by criminal elements. As someone who has been President of USET for 7 years, and as Chairman of the Oneida Gaming Commission since 1993, I think that I have some expertise in Indian gaming matters. In my experience, I can tell the Committee that

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these allegations are unfounded and untrue, and I find them personally offensive. Contrary to these assertions, Indian gaming is more comprehensively regulated than any other gaming in the United States.

The regulation of Indian gaming is expressly provided for in IGRA, which starts from the premise that "Indian tribes have the exclusive right to regulate gaming activity on Indian lands, if ... [it] is conducted in a state which does not, as a matter of criminal law and public policy, prohibit such gaming activity." In recognition of this exclusive right, Congress sought to create a regulatory framework that Indian nations could use for their gaming enterprises. This was accomplished by establishing a compacting mechanism that gives state governments significant input regarding the scope and nature of tribal casino operations, and by creating a new regulatory agency, the National Indian Gaming Commission ("NIGC").

It is through the compact negotiation process that state governments are given a meaningful voice in the manner in which gaming will be conducted in Indian country. Virtually all gaming compacts are detailed and specific, setting forth rules governing games to be played, the application of various laws, operational standards to be followed, fees and reimbursements to be paid, and the respective roles of state and tribal authorities. For example, the Oneida Nation's compact with the State of New York is nearly 300 pages long and covers almost every aspect of our gaming operations. The compacting process has been immensely successful in ensuring the integrity of Indian gaming while preserving the inherent sovereign rights of Indian nations to regulate their own legal and commercial affairs.

The Oneida Nation's compact serves as the foundation for a complex—and expensive—regulatory structure that monitors all aspects of the Oneida Nation's gaming operations. Pursuant to its compact with the State, the Nation has established the Oneida Nation Gaming Commission. Most of the Commission's employees are professional investigators and auditors with extensive experience in the field of gaming regulation. Our commission has promulgated an extensive body of regulation and utilizes its auditors and investigators to ensure compliance. In addition, no one can obtain employment at the Nation's casino unless he or she is first licensed by our Commission. And finally, the Commission retains multiple professionals who periodically audit our casino games and accounting practices and thoroughly investigate any and all patron complaints.

The Oneida Nation Gaming Commission shares regulatory oversight of its casino with the State of New York. Pursuant to our Nation-State compact, the New York State Police conduct background checks on every individual—from a custodian to the chief operating officer—who works at the casino. In addition, the New York State Racing and Wagering Board maintains a full-time staff of regulators at our casino, who work cooperatively with our Gaming Commission. One product of that cooperative effort is a detailed compilation of internal controls that govern every aspect of casino operations. Those controls are among the most complex and sophisticated in the gaming industry.

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All costs associated with the work of the State Police and the New York Racing and Wagering Board at our casino are borne exclusively by the Oneida Nation. When combined with the cost of financing the operations of the Oneida Nation Gaming Commission, the Nation spends approximately \$8.8 million every year to regulate and protect its gaming operation. This cost enables the Nation to pay for the 206 employees that are engaged in regulating gaming operations at Turning Stone Casino and Resort.

To the best of my knowledge, no state official has suggested that the regulation of Indian gaming is inadequate or that there is rampant corruption on Indian reservations that requires federal or state intervention. IGRA contemplates a scheme of joint regulatory jurisdiction, shared equally by state and tribal governments—a structure that has worked effectively to safeguard the integrity of Indian gaming.

Further, in past testimony, the United States Department of Justice has testified before this Committee that it has found no instances of infiltration by organized crime at Indian gaming facilities. To the contrary, Indian gaming operations work cooperatively with the U.S. Department of Justice and the U.S. Department of Treasury to ensure that cash transactions are properly monitored and reported to the responsible authorities. In fact, at Turning Stone, we have worked closely with the IRS District office in New York, on a government-to-government basis to ensure that the Nation's cash transactions are conducted in a secure and lawful manner.

Our opponents compare the budget of the National Indian Gaming Commission, which is \$8 million a year, to the budgets of the New Jersey and Nevada gaming commissions, which near approximately \$80 million a year, as a way of insinuating that not enough money is spent to regulate tribal gaming. I hope I have shown that this analogy does not make any sense. In fact, in the eastern area, more money *per capita* is spent on Indian gaming operations than on their non-governmental gaming counterparts. I suspect that this fact is true nationwide.

When Congress established the NIGC, it envisioned a limited role in Indian gaming for this federal agency. Congress contemplated that the NIGC would have an initial role in regulating Class II gaming, such as bingo, pull-tabs, and certain electronic games. Eventually, however, the NIGC's role with respect to Class II gaming would be phased out. As to Class III gaming, casino gaming, the IGRA provides that the Indian nations and states were expected to resolve all regulatory issues without direct NIGC participation. Thus, it is clear that Congress never intended the NIGC to perform a regulatory function similar to the one assigned to the Nevada State Gambling Commission. This function was to be carried out by the tribes and the states. Consequently, no purpose can be served by comparing two agencies other than to perpetuate the myth that Indian gaming is unregulated.

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Need to Address the Seminole Decision

Some tribes in the eastern area have been able to use Indian gaming to rejuvenate their economies. Others have not yet been able to establish meaningful gaming operations. And some have been hampered by governors who refuse to negotiate with Indian tribes. For example, in Alabama, the Poarch Band of Creek Indians has been trying unsuccessfully to negotiate with the last four governors of that state for a Class III compact.

As you know, IGRA provides that if a tribe wishes to negotiate a compact with a state, and if gaming is not criminally prohibited in that state, the governor shall negotiate the terms of a gaming compact with the tribe. Unfortunately, the 1996 Supreme Court decision in *Seminole Tribe of Florida v. State of Florida* has left tribes without recourse if a state refuses to negotiate with a tribe, contrary to the provisions of IGRA. Consequently, I urge this Committee to address this inequity and put Indian tribes back on a level playing field with their state government counterparts.

Conclusion

In parting, I would like to remind this Committee that Indian gaming must always be placed in its proper context within Indian country. As the Committee knows well, although some Indian casinos have succeeded in helping tribal governments fulfill their goals of self-sufficiency and self-determination, that success is not enough to remedy the monumental problems caused by two centuries of poverty.

According to the U.S. Census Bureau, American Indians are still nearly two and half times as likely to be living below the poverty line as the rest of the U.S. population. Infant mortality rates, alcoholism and diabetes are proportionately higher among Native Americans than other groups. And unemployment on Indian reservations is four times the national average. Further, in the midst of these circumstances, federal spending on Indian education programs and Indian housing has been declining for the past twenty years. And some in Congress are seeking to further reduce opportunities for Indian tribes to improve their health care and expand opportunities for economic development.

Indian nations are attempting to address these problems on their own through commercial enterprises, such as gaming. And while tribal gaming is not perfect, Indian nations should be allowed to address any deficiencies internally just as other governments are allowed to regulate their own affairs. Indian nations are not asking for subsidies or special treatment; they simply wish to be allowed to exercise their sovereign right to control their economies, manage their lands, and provide for their people.

Thank you once again for the opportunity to participate in this important hearing, and I would be glad to answer any questions from the Committee.

**THE ECONOMIC IMPACT
OF THE ONEIDA NATION**

A Ten-Year Perspective:

**Over the last decade almost 20 million visitors
patronized the Turning Stone Casino Resort and
that resulted in more than \$350 million in wages
and \$670 million in vendor payments
injected into the regional economy**

Submitted by:

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March 19, 2001

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EXECUTIVE SUMMARY

Faced with a series of economic setbacks, the economic picture of Central New York looked somewhat bleak in the mid-1990s. Griffiss Air Force Base had recently closed, with the attendant loss of civilian jobs and the removal of the military spending power. General Electric sold out to McDonnell Douglas and that employer left the area after a short stay. In addition, Chicago Pneumatic and Bendix Aviation closed, leaving more people out of work.

Amid this economic instability, the Oneida Nation made the decision to expand its total enterprise perspective in the early 1990s. In 1992, operations at the Oneida Nation were relatively small and included a Bingo Hall and a small retail store. Before 1992, the Nation's payroll did not even reach a million dollars.

In 1992, the Oneida Nation developed the Turning Stone Casino, investing over \$24 million in capital development and improvements. When the casino opened in 1993, the Nation increased its employment to 1,880 people. Its vendor payments topped \$44 million, making the Oneida Nation at once a new and significant economic player in the region.

Over the next few years, operations continued to grow, and by 1997 there were over 2.5 million visitors annually to the Turning Stone Casino Resort. Employment expanded to 2,850 workers with an annual payroll of over \$47 million. In addition to feeling the beneficial payroll effects of this expansion, the area economy also experienced the positive impact of increased vendor payments, continued capital expenditures and enhanced tax revenues at the federal, state and local levels.

With the addition of the Hotel at Turning Stone, the Oneida Nation continued to expand and diversify its operations from 1997 through 2000. As a result, the economic impact of the Nation continued to grow, albeit at a more modest pace. From 1997 through 2000, annual visits continued to expand. In 2000, the Turning Stone Casino Resort welcomed more than 3.5 million visitors, and overall employment hovered at between 2,850 and 3,000 workers. Total payroll grew to over \$63 million as workers at the Oneida Nation experienced increases in compensation. Capital expenditures and vendor payments have also come to play an important role in the economic vitality of the region. In 2000, vendor payments reached over \$123 million and capital expenditures equaled almost \$20 million.

More recently, the Oneida Nation has continued to expand and, importantly, for the region, diversify its operations. For example, a conference center and state-of-the-art showroom recently was opened at the Turning Stone Casino Resort. With the addition of the conference center, the Turning Stone Casino Resort has hosted a number of professional boxing matches along with concerts by a number of nationally recognized entertainers. Diversification also has taken part in other areas of operation at the Oneida Nation, including golf expansions. These include the building of a PGA-level 18-hole

Shenandoah Golf Course, a 9-hole, Par 3 course (Sandstone Hollow), and the acquisition of a 9-hole local course, Pleasant Knolls. Other expansion includes added guest accommodations at the Villages at Turning Stone RV Park and The Inn at Turning Stone, a 65-room motel. These projects added further employment opportunities in the professional, skilled, managerial, and entry-level job sectors.

Currently, the Oneida Nation is a mainstay of the local economy, providing economic stability, job opportunities, and business opportunities for a host of local and regional businesses. To provide a better understanding of the important role the Oneida Nation currently plays in the state and local economy, an economic profile for the year 2000 is provided below.

- More than 3.5 million people visited the Turning Stone Casino and Resort.
- The Oneida Nation directly employed 2,857 workers, and of that total 86% were non-Native Americans.
- More than 92% of the workers at the Oneida Nation resided in either Oneida, Madison, or Onondaga counties.
- When indirect job creation from current employment is taken into consideration, 4,049 jobs had been created in Oneida, Madison, and Onondaga counties, and 4,193 had been generated statewide.
- Capital outlays for plant expansion and equipment equaled \$19.5 million and these outlays created additional jobs for the three-county area.
- Average wages at the Oneida Nation are higher than comparable jobs in the area and state.
- Employees of the Oneida Nation paid an estimated \$17 million in federal payroll taxes. The total increased to \$29.3 million when all other forms of employment are taken into consideration.
- County and local governments have also benefited from enhanced tax revenue.
- Vendor payments exceeded \$123 million.
- Over the course of the year, over 4,000 vendors received orders from the Oneida Nation. More than 1,000 of those vendors were located in the three-county area and another 829 were located in other parts of New York State.
- Over \$800,000 was awarded in Silver Covenant grants to area communities.

As late as February 2001, the Oneida Nation announced further plans to expand the casino, add hotel rooms, and build a clubhouse-conference center at its PGA-level resort golf course. This is expected to add an additional 300 jobs within the remainder of the year, according to Oneida Nation sources.

It is clear from this economic profile that the Oneida Nation invests tens of millions of dollars into the area economy on an annual basis. What these figures do not capture, however, is the significant role the Oneida Nation has come to play in deepening the economic base of the region. At a time when manufacturing jobs have eroded and the defense industry has suffered significant cutbacks, the Oneida Nation has become a critical source for economic diversification. As the regional economy heads into the new millennium, the area economy can only benefit by further economic development and diversification by the Oneida Nation.

INTRODUCTION

Faced with a number of economic shocks such as the closing of Rome's Griffiss Air Force Base, the departure of Lockheed and Chicago Pneumatic, the economic climate of upstate Central New York was bleak in the early 1990s. Amid this economic stagnation, the Oneida Nation, centered in the Town of Verona and the adjacent City of Oneida, decided to expand its total enterprise perspective. Fortunately for the area, the tremendous economic success of the Oneida Nation has been critical to the recent economic revitalization of the Central New York economy.

Currently, the Oneida Nation is the largest employer in the Madison-Oneida County area, and one of the largest and most stable employers in the region. The Nation provides 3,000 jobs and injects tens of millions of dollars annually into the area economy in terms of wages, vendor payments, capital expenditures, and tax revenues. Future growth and diversification of the Oneida Nation Government and Enterprise Operations will play a key role in the continued economic prosperity of the region.

TOURISM

The economic success of the Oneida Nation largely hinges, at present, on the growth of the Turning Stone Casino Resort. Table 1 provides information on the number of visits to the Turning Stone Casino Resort from 1993 through 2000. In 1993, there were 449,000 visitors, and by 1998 that number topped 3.3 million visitors.

In 2000, the Turning Stone Casino Resort hosted more than 60,000 visitors per week for a total of over 3.5 million visitors. In addition to gaming opportunities, visitors patronized a number of gourmet restaurants and took advantage of a variety of other forms of entertainment such as concerts, boxing and golf. Visitors also took advantage of the four-star hotel resort operated by the Nation, and its smaller properties, the Inn at the Turning Stone and the Villages at Turning Stone RV Park.

**Table 1. Number of Annual Visits to the
Turning Stone Casino and Resort**

Year	Number of Annual Visits
1993	449,000
1994	1,869,000
1995	2,064,000
1996	2,397,000
1997	2,505,000
1998	3,387,000
1999	3,548,000
2000	3,502,000

The recent opening of the Convention Center and a state-of-the-art showroom will ensure that patrons will continue to visit the Turning Stone Casino Resort to take advantage of a growing number of recreational activities.

Tourism also benefits businesses surrounding the Turning Stone Casino Resort as visitors take advantage of the region's lodging and restaurant facilities.

EMPLOYMENT

Table 2 indicates that job growth at the Oneida Nation has been nothing short of phenomenal throughout the 1990s.

From a modest beginning of 201 employees in 1992, the Oneida Nation has expanded to the point where it currently employs approximately 2,850 people, an increase of 1,425%. Most of that growth took place in 1993 when the casino first opened its doors and hired 1,679 workers.

From 1993 through 2000, employment at the Oneida Nation continued to grow in excess of 6.6% per year. In recent years, employment growth has stabilized and currently hovers between 2,850 and 3,000 jobs. Of that total, more than 86% were held by non-native Americans.

**Table 2 - Job Creation at the Oneida Nation
1992-2000**

Year	Total Employment	Change From Previous Year +/-
1992	201	---
1993	1,880	835%
1994	1,807	-3.9
1995	2,134	18.1
1996	2,343	9.8
1997	2,850	21.6
1998	2,840	-0.4
1999	2,982	5.0
2000	2,857	-4.2*

*One hundred positions open, but not filled

The total employment impact of the Oneida Nation goes far beyond the direct employment effects. Anytime an entity adds to its employment base and expands operations, there are a number of additional, or indirect, jobs created throughout the local economy. Economists refer to this phenomenon as the multiplier effect because it measures the ability of one job to produce additional jobs in the area economy as income is circulated throughout the economy.

The most recent estimates indicate that each job created by the Oneida Nation supports an additional .41 jobs in the three-county area (Oneida, Onondaga and Madison counties), and .46 jobs statewide. Put in other terms, every five jobs created by the Oneida Nation supports an additional two jobs in the area economy. Overall, that translates into an additional 1,192 jobs in the three-county area and 1,336 additional jobs statewide. When the employment impact of capital expenditures is factored into the equation, the economic activities of the Oneida Nation were responsible for 4,442 jobs in the three-county area in 2000.

NATION'S ROLE CRITICAL

A comparison of job growth at the Oneida Nation with employment trends at the regional and state levels provides a sense of the critical role the Oneida Nation played in providing jobs at a time when the local economy was sagging.

In 1993, when the Oneida Nation had its largest increase in employment, the number of jobs in the three-county and state level grew at the meager rates of 1% and 0.8%, respectively. From 1993 to 2000, employment opportunities at the Oneida Nation continued to expand at the average annual rate of 6.6%. During that same time period, employment at the three-county and state levels increased by only 0.3% and 1% per year.

Put in a different light, the rate of growth job at the Oneida Nation from 1993 through 2000 was over 22 times the rate of job growth for the three-county area, and over six times the rate of employment growth for the entire state over that same period of time. Such evidence indicates that the Oneida Nation was a vital source and perhaps the principle of job growth at a time when the area economy otherwise was stagnating.

PAYROLL IMPACTS

A review of payroll figures confirms the increasing role the Oneida Nation played in the area economy throughout the 1990s. In 1991 the Oneida Nation paid out slightly more than \$900,000 in wages and salaries. That figure jumped to over \$34 million in 1994 when the total employment at the Oneida Nation increased by over fifteen hundred workers in response to the opening of the Turning Stone Casino. From that point forward total wages continued to increase every year in response to increases in both overall employment and higher wages.

By 2000, the Oneida Nation injected more than \$63 million into the regional economy in terms of wages and salaries. Of that total, approximately \$58.7 million went to workers residing in the three-county area, again confirming that the majority of the economic impact of the Oneida Nation is felt in the immediate geographic region. If you take into consideration those jobs created indirectly or through capital outlays, that figure becomes substantially larger.

**Table 3 – Total Wages Paid to Nation
Employees, 1999-2000**

Year	Wages Paid
1991	935,000
1992	2,036,000
1993	7,714,000
1994	34,343,000
1995	34,741,000
1996	44,424,000
1997	47,884,000
1998	56,662,000
1999	61,227,000
2000	\$63,255,000

FEDERAL, STATE, AND LOCAL TAX REVENUE

Table 4 provides some perspective on the level of tax revenues generated by the Oneida Nation at the state and federal levels over the years

The Economic Impact of the Mississippi Band of Choctaw Indians and Their Affiliated Enterprises on The State of Mississippi

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Presented to The Mississippi Band of Choctaw Indians

Principal Contractor: Center for Community and Economic
Development, The University of Southern Mississippi

Principal Subcontractor: The Goodman Group, Inc.

June 15, 1999.

INTRODUCTION

This economic impact study was commissioned by the Mississippi Band of Choctaw Indians. The impetus for this study is the general perception by the public that the reservation is a consumer of public wealth and gives nothing back to the general public.

The Mississippi Band of Choctaw Indians contracted with the Center for Community and Economic Development at the University of Southern Mississippi to prepare an economic impact study of the reservation's economic activities. The University of Southern Mississippi subcontracted coordination of this study to the Goodman Group, Inc., a Mississippi-based economic consulting company. Much of the field work was accomplished by interns in USM's Masters of Economic Development program, under the coordination of Dr. Ron Swager. Mark Folden was the lead intern on the project. The proceeding study and analysis is the culmination of that endeavor.

We want to thank the Mississippi Band of Choctaw Indians for the opportunity to develop this impact analysis. We also want to thank Chief Philip Martin and his economic development department staff, Mr. John Hendrix and Mr. Randy Spears for their assistance in completing this study.

It became clear early in this study that the Mississippi Band of Choctaw Indians is a major economic force within the state of Mississippi. The further we delved into the data the more clearly several factors stood out.

First and foremost, the overall leadership has done a superb job. This is particularly evident in the continuity of activities. This is not the case with reservations in general.

Secondly, the reservation leadership focused on economic issues and was not derailed by politics. This manifested itself through the quality of section and department leadership, a clear benefit in a study such as this.

On behalf of the University of Southern Mississippi Center for Community and Economic Development and the Goodman Group Inc., it has been our pleasure to work with the Mississippi Band of Choctaw Indians on this project.

Robert Ingram

Robert Ingram
Executive Director Of Economic Development
USM

Dr. Lowell Goodman

Dr. Lowell Goodman
The Goodman Group, Inc.

Ronald Swager

Dr. Ronald Swager
Department of Economic Development
USM

PURPOSE OF THIS STUDY

There is a general perception by the public at large that trust lands and their inhabitants simply reach out for public assistance and return nothing to the public at large.

This study was commissioned to analyze the benefits and impact the Mississippi Band of Choctaw Indians' reservation has on the surrounding region and the state of Mississippi.

Over the past twenty years, the Mississippi Band of Choctaw Indians has become a significant economic engine. Education and infrastructure were the emphasis in the 1970s and 1980s. Jobs and economic growth were the focus in the 1980s and 1990s. With the prevailing perception and the tremendous growth that has taken place, the tribal leadership felt it was important to show how the Choctaws benefit the region and the state. Through employment, construction, purchases and other spending, the tribe causes state taxes to be paid through income taxes, sales taxes, car tags, gas tax and a host of retail expenditures, resulting in an impact which is felt throughout the state. Tribal leaders therefore contacted USM Center for Community and Economic Development to develop an economic impact study of the Mississippi Band of Choctaw Indians.

This publication is the result of that effort.

THE APPROACH

Our task in this study is to quantify the economic activity, both regionally and statewide, generated by the existence of the reservation. The approach we have taken is to track jobs and purchases resulting from activity on the reservation. These two broad categories are the activities that directly impact the outside. From these direct activities the indirect impact is developed.

The exchange of money and the purchase of goods and services create state income tax, retail sales tax, gasoline tax, and of course additional jobs.

We will compare these findings with economic impact models developed by the U. S. Chamber of Commerce and the multipliers developed for the state of Mississippi.

Our principal goal is to measure the visible impact including active jobs and purchases off the reservation and the economic activity generated as a result.

THE MISSISSIPPI BAND OF CHOCTAWS

The Choctaws in Mississippi have a land scheme different from western tribes. Nearly all western tribes have relatively large contiguous tracts, whereas the Choctaws have several small tracts. To compensate for this inconvenience, the tribe has been following a "growth point" plan for development.

The governmental and largest of these dispersed parcels, Pearl River, is the principal point of growth and development. The outlying parcels are housing communities. Consequently, commuting is a way of life.

The communities of the Choctaws are Pearl River, Redwater, Standing Pine, Bogue Chitto, Tucker, Conhatta, Bogue Homa and Crystal Ridge.

The Choctaw reservation, principally in East Central Mississippi, includes portions of Neshoba, Attala, Jackson, Jones, Kemper, Leake, Newton, Scott and Winston counties.

Eight communities and additional land encompass more than 25,000 acres with a population of more than 8,300, all of whom have a minimum of 50 percent Choctaw blood quantum. Tribal headquarters are located in the Pearl River Community.¹

¹ Choctaw-Mississippi Bank of Choctaw Indians Demographics 1997

The following chart shows the progress the tribe has made over the past 11 years.

Income by Household: 1986, 1990 and 1997					
Income Level	1986		1990		1997
	Number	Percent	Number	Percent	Number
Under \$3000	110	13.1	170	19.0	79
\$3000-\$7999	215	25.5	195	21.8	151
\$8000-\$14,999	271	32.2	273	30.6	248
\$15,000-\$24,999	158	18.8	176	19.7	424
\$25,000-\$40,000	77	9.1	62	6.9	368
Over \$40,000	13	1.4	16	1.8	221
TOTALS	844	100.1	892	99.8	1491

Sources: Tribal Census 1997

By 1998 there were over 5,800 employees working on the reservation. Good medical facilities are also available at Pearl River. There is a hospital, clinic and senior's home in the complex. The senior's retirement facility is for both native and non-Indian. There is presently a waiting list of about a year. The greatest economic event was the completion of the Silver Star Casino and Resort Hotel. This development employs 2,200 and generates large amounts of cash for the reservation.

Today the Mississippi Band of Choctaw Indians encompasses 25,000 acres of land and is home to 8,300 people.

ECONOMIC DEVELOPMENT

The Mississippi Band of Choctaw Indians has experienced rapid economic growth during the last 15 years. Lacking in natural resources, the tribe created an industrial economy in 1979. The completion of the first phase is a 80-acre industrial park.

The success of tribal economic enterprises has led to a decrease in unemployment from 75 percent to four percent in 1998. From 1981 to 1997, per capita income increased 346 percent. Since then, the tribe has added several successful new ventures, contributing to continued economic growth.

The following manufacturing, retail and commercial services are in operation:

- Choctaw Development Enterprise Construction, Pearl River, est. 1969
- Chahta Enterprise, Automotive, wiring harnesses, Pearl River, DeKalb, Conehatta, est. 1979, 196,800 sq. ft.
- American Greetings, Hand-finished greeting cards, Pearl River, est. 1981, 120,000 sq. ft.

- Choctaw Electronics Enterprise, Automotive speakers, Pearl River, est. 1985, 61,000 sq. ft.
- Choctaw Manufacturing Enterprise, Wiring harnesses, printed circuit boards, Red Water, est. 1986, 85,000 sq. ft.
- Choctaw Residential Center, 120-bed nursing home, Pearl River, est. 1988, 42,000 sq. ft.
- Choctaw Shopping Center, Retail center, Pearl River, est. 1988, 65,000 sq. ft.
- First American Printing & Direct Mail, Commercial printing, direct mail, inquiry fulfillment, Ocean Springs, est. 1990, 74,000 sq. ft.
- Choctaw Construction Enterprise, Construction, Pearl River, est. 1993
- First American Plastic Molding Enterprise, Plastic injection molding, Ocean Springs, est. 1994, 22,000 sq. ft.
- Silver Star Resort & Casino, Casino and 509-room hotel, Philadelphia, est. 1994, 515,000 sq. ft.
- Dancing Rabbit Golf Club, 36-hole championship golf course, Pearl River, est. 1996 and expanded in 1999.

These businesses and industrial enterprises employ more than 5,800 people. The industrial, service and governmental sectors combine to place the tribe among the 10 largest employers in the state of Mississippi.

ASSUMPTIONS

Discretionary Income: This is spendable income and in the State of Mississippi it calculates to be 41% of total wages.

Mississippi Income Withholding is estimated to average \$600.27 per employee. (Note that Tribal members living on the Reservation do not pay State Income Tax, and are not included in this figure).

Property taxes are estimated to average \$480 per household for off reservation employees.

MULTIPLIERS

Three approaches were utilized

1. State of Mississippi
2. U. S. Chamber of Commerce
3. U. S. Chamber Technique of 1 job for every \$ 100,000 spent. This is added to the total employment.

The multiplier used here was computed to be 2.03 for each FT Employee on the reservation, 1.03 people is employed elsewhere as a result.

Executive Summary

Direct Impact

The Mississippi Band of Choctaw Indians and their affiliated enterprises employ **5822** people who are paid **\$97,448,847** in wages throughout the State of Mississippi. Of these employees, 2243 are Indian, 3579 are non-Indian, 2157 live on the reservation, and 3665 live off the reservation. These employees are distributed across 42 counties throughout the State of Mississippi.

It is estimated that the following tax revenues are generated by employment by MBCI and its affiliated enterprises:

- **\$2,328,800** in State Income Tax.
- **\$3,042,310** in sales tax, of which **\$623,673** returns to the community in which the transaction took place.
- **\$2,794,560** in property taxes
- **\$465,760** in car tag fees
- The payment of **\$512,901** in motor fuel taxes through commuting 62,688,000 miles annually consuming 2,849,450 gallons of gasoline. This commuting pattern is the equivalent to circumnavigating the earth 10.03 times every working day.

These employees also generate **\$8,347,680** in rent payments annually. Additionally, the MBCI and their affiliated enterprises purchase **\$95,251,973** in goods and services throughout 66 counties in the State of Mississippi. These expenditures generate additional demand for goods and services in the economy that would otherwise not exist.

Indirect Impact

Using multiplier data from the U.S. Chamber of Commerce, the Western Regional Economic Council, and the Bureau of Economic Analysis, the overall multiplier for MBCI and its affiliated enterprises is **2.03**. In other words, for each employee for MBCI and its affiliated enterprises there are 1.03 jobs created in the economy. Using this multiplier and U.S. Chamber of Commerce statistics stating that for every \$100,000 spent, one job is created and that 41% of an employee's income is discretionary, the indirect jobs can be calculated:

	Indirect Jobs	Indirect Wages	Spendable \$
$5822 * 1.03 =$	5997	$* \$11,400 =$	$*.41 =$
$\$28,029,978/\$100,000 =$	280	$* \$11,400 =$	$*.41 =$
$\$1,308,720/\$100,000 =$	13	$* \$11,400 =$	$*.41 =$
		\$68,365,800	\$28,029,978
		\$3,192,000	\$1,308,720
		\$148,200	\$61,170
Total	6290	\$71,706,000	\$29,399,868

It is estimated that the following tax revenues are generated by indirect employment resulting from MBCI and its affiliated enterprises:

- **\$2,516,000** in State Income Tax.
- **\$2,057,990** in sales tax, of which **\$421,888** returns to the community in which the transaction took place.
- **\$3,019,200** in property tax.
- **\$503,200** in car tag fees.
- **\$257,318** in motor fuel tax.

These indirect employees also generate approximately **\$754,800** in rent payments annually.

Total Impact

Total direct and indirect impact of the Mississippi Band of Choctaw Indians and their affiliated enterprises is estimated as follows:

- 12,112 jobs
- **\$172,647,052** in wages paid
- **\$9,102,480** in rent paid.
- **\$4,844,800** in State Income Tax
- **\$5,100,300** in sales tax, of which **\$1,045,561** returns to the communities in which the transaction took place.
- **\$5,813,760** in property taxes
- **\$968,960** in car tag fees.
- **\$770,219** in motor fuel taxes.

The total impact can be further broken down to indicate what each person employed by MBCI and its affiliated enterprises is responsible for generating in the general economy and in tax revenues in the State of Mississippi.

- **\$1,563** in rent payments.
- **\$832** in State Income Tax paid.
- **\$875** in sales tax, **\$179** of which returns to the community in which the transaction took place.

- **\$890** in property taxes to counties.
- **\$166** in car tag fees.
- **\$132** in motor fuel taxes.
- **\$29,476** in retail sales and purchases by MBI and affiliated enterprises per employee.

Statistical Breakdown of Retail Sales Created by Employees of MBI and Their Affiliated Enterprises

Retailer	% of Spendable Income	\$ Spent	\$Spent/5822 Employees
Food	18.00%	\$13,115,059	\$ 2,252.67
Auto Accessories	20.00%	\$14,572,288	\$ 2,502.97
General Retail	10.20%	\$ 7,431,867	\$ 1,276.51
Department Stores	8.50%	\$ 6,193,222	\$ 1,063.76
Eating and Drinking	8.50%	\$ 6,193,222	\$ 1,063.76
Gas	7.00%	\$ 5,100,301	\$ 876.04
Furniture	5.00%	\$ 3,643,072	\$ 625.74
Clothing	5.00%	\$ 3,643,072	\$ 625.74
Lumber & Hardware	9.00%	\$ 6,557,530	\$ 1,126.34
Drug Stores	2.80%	\$ 2,040,120	\$ 350.42
Liquor	2.00%	\$ 1,457,229	\$ 250.30
Variety	2.00%	\$ 1,457,229	\$ 250.30
		\$ 72,861,439	\$ 12,514.85

Source: Extrapolated from the U.S. Census

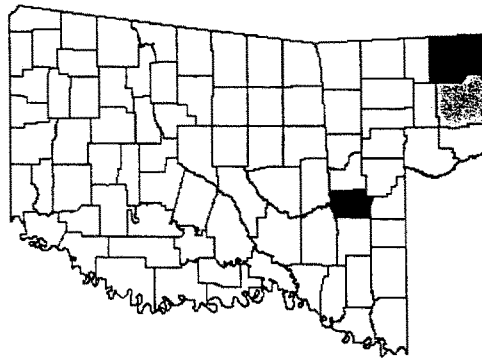
Appendices

The remainder of this report are tables and maps showing the contribution of MBCI and its affiliated enterprises to the direct impacts shown in the findings of this study followed by a summary of the direct impacts to each county.

In the maps, concentrations of employment with MBCI and affiliated enterprises (blue) and purchases made by MBCI and affiliated enterprises (green) are as follows:

Dark Solid: Over 50%
Medium Solid: Between 10% and 49.99%
Light Solid: Between 1% and 9.99%
Striped: Less than 1%

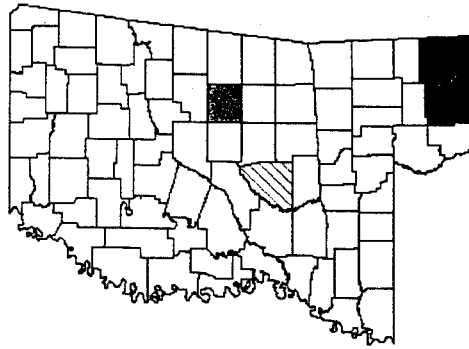
First American Plastic Employees



	Employees	%	Est. Payroll	Est. State Tax Withheld
Harrison	4	6.04%	\$ 92,910.36	\$ 1,600.00
Jackson	58	82.15%	\$1,347,200.22	\$ 23,200.00
Lawrence	8	11.29%	\$ 185,820.72	\$ 3,200.00
Total	70	100.00%	\$1,625,931.30	\$ 1,600.00

First American Plastic Enterprise employs 1 Indian and 69 non-Indians, all of whom live off the MBCI Reservation.

First American Plastic Purchases

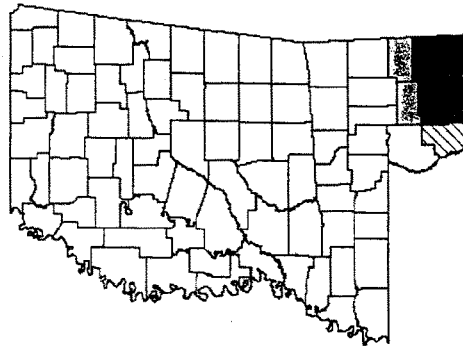


Harrison
 Jackson
 Neshoba
 Rankin
 Total

\$ 47,776.49
 \$131,760.06
 \$ 2,574.00
 \$ 1,683.00
\$183,793.55

25.99%
 71.69%
 1.40%
 0.92%
100.00%

First American Printing Employees



	Employees	%	Est Payroll	Est. State Tax	Withheld
George	2	1.68%	\$ 28,655.46	\$	638.66
Hancock	1	0.84%	\$ 14,327.73	\$	319.33
Harrison	22	22.69%	\$ 386,848.74	\$	8,621.85
Jackson	69	73.11%	\$1,246,512.61	\$	27,781.51
Stone	2	1.68%	\$ 28,655.46	\$	638.66
Total	95	100.00%	\$1,705,000.00	\$	38,000.00

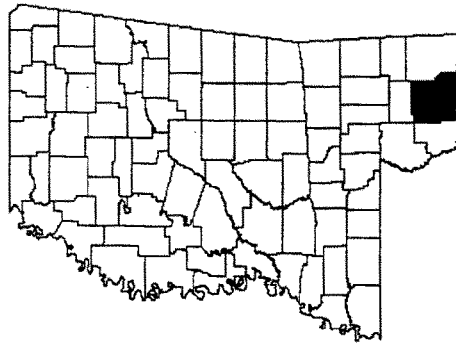
First American Printing Enterprise employs no Indians and 95 non-Indians, all of whom live off the MBCI Reservation.

100.00%

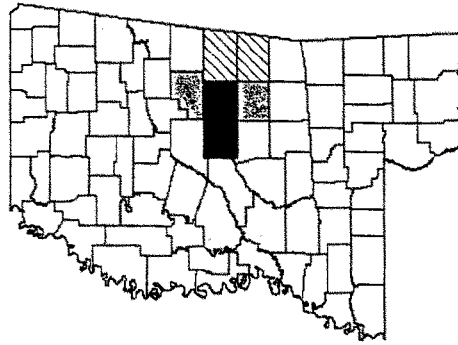
\$ 700,000.00

Harrison

First American Printing Purchases



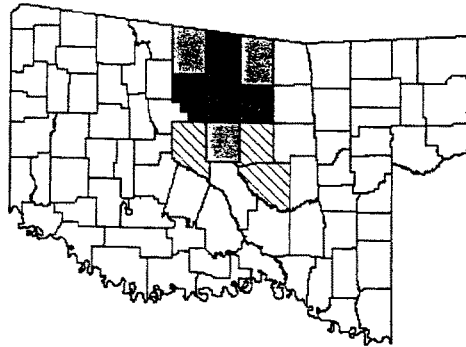
American Greetings Employees



American Greetings employs 63 Indians and 125 non-Indians, 45 of their employees live on the MBCI Reservation, 143 live off the MBCI Reservation.

	Employees	%	Est. Payroll	Est. State Tax Withheld
Kemper	1	0.53%	\$ 14,180.00	\$ 400.00
Lauderdale	1	0.53%	\$ 14,180.00	\$ 400.00
Leake	30	15.96%	\$ 608,085.00	\$12,000.00
Neshoba	135	71.81%	\$1,914,300.00	\$54,000.00
Newton	12	6.38%	\$ 206,897.00	\$ 4,800.00
Winston	9	4.79%	\$ 127,620.00	\$ 3,600.00
Total	188	100.00%	\$2,885,062.00	\$75,200.00

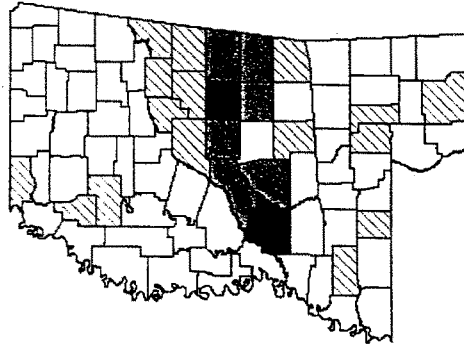
Chahita Enterprises Employees



Chahita Enterprises employs 182 Indians and 648 non-Indians, 175 of which live on the MBCI Reservation and 655 live off the MBCI Reservation.

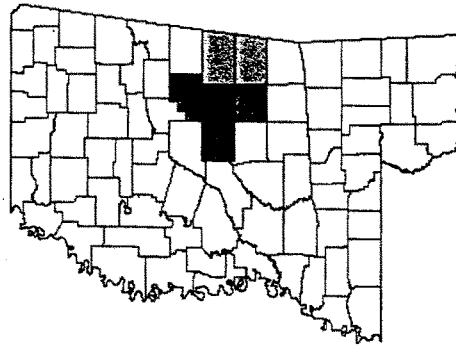
	Employees	%	Est. Payroll	Withholding	Est. State Tax
Altala	4	0.48%	\$ 56,775.36	\$ 1,600.00	
Kemper	98	11.81%	\$ 1,390,996.32	\$ 39,200.00	
Lauderdale	34	4.10%	\$ 482,590.56	\$ 13,600.00	
Leake	23	2.77%	\$ 326,458.32	\$ 9,200.00	
Neshoba	282	33.98%	\$ 4,002,662.88	\$ 112,800.00	
Newton	217	26.14%	\$ 3,080,063.28	\$ 86,800.00	
Noxubee	13	1.57%	\$ 184,519.92	\$ 5,200.00	
Rankin	2	0.24%	\$ 28,387.68	\$ 800.00	
Scott	2	0.24%	\$ 28,387.68	\$ 800.00	
Winston	155	18.67%	\$ 2,200,045.20	\$ 62,000.00	
Total	830	100.00%	\$11,780,887.20	\$332,000.00	

Chahita Enterprises Purchases



Attala	3,439	0.04%
Choctaw	1,053	0.01%
Clarke	856	0.01%
De Soto	3,975	0.04%
Forrest	7,406	0.08%
Franklin	23	0.00%
Harrison	2,227	0.02%
Hinds	924,359	10.29%
Kemper	101,346	1.13%
Lamar	3,674	0.04%
Lauderdale	584,727	6.51%
Leake	107,475	1.20%
Lowndes	3,779	0.04%
Madison	269,962	3.01%
Neshoba	6,323,244	70.40%
Newton	95,022	1.06%
Noxubee	16,215	0.18%
Oktibbeha	3,493	0.04%
Pike	499	0.01%
Quitman	50	0.00%
Rankin	478,864	5.33%
Smith	980	0.01%
Tallahatchie	1,121	0.01%
Winston	48,097	0.54%
Total	\$ 8,981,886	100.00%

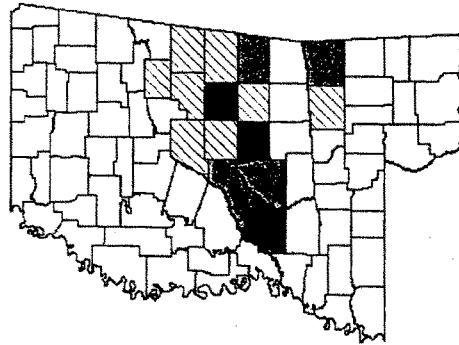
Choctaw Development Employees



Choctaw Development Enterprise employs 30 Indians and 53 non-Indians, 30 of which live on the MBCI Reservation and 53 of which live off the MBCI Reservation.

	Employees	%	Est. Payroll	Est. State Tax
Kemper	7	8.43%	\$ 196,196.98	\$ 2,800.00
Lauderdale	2	2.41%	\$ 56,056.28	\$ 800.00
Leake	9	10.84%	\$ 252,253.26	\$ 3,600.00
Neshoba	47	56.83%	\$1,317,322.58	\$18,800.00
Newton	9	10.84%	\$ 252,253.26	\$ 3,600.00
Winston	9	10.84%	\$ 252,253.26	\$ 3,600.00
Total	83	100.00%	\$2,326,335.62	\$33,200.00

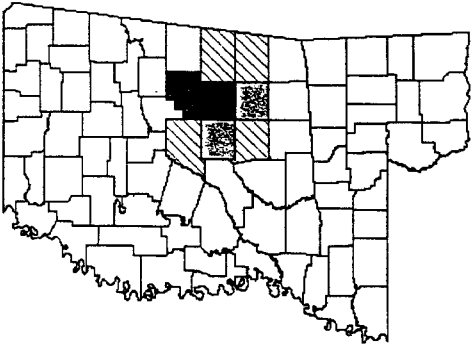
Choctaw Development Purchases



Altala	\$	32,372.00	0.42%
Hinds	\$	1,557,950.00	20.01%
Jones	\$	23,758.00	0.31%
Kemper	\$	4,485.00	0.06%
Lauderdale	\$	533,796.00	6.86%
Leake	\$	10,714.00	0.14%
Madison	\$	87,529.00	1.12%
Neshoba	\$	2,959,988.00	38.02%
Newton	\$	26,735.00	0.34%
Noxubee	\$	2,860.00	0.04%
Oktibbeha	\$	3,544.00	0.05%
Rankin	\$	293,916.00	3.78%
Scott	\$	1,996,230.00	25.64%
Wayne	\$	210,691.00	2.71%
Winston	\$	39,858.00	0.51%
Total		\$7,784,426.00	100.00%

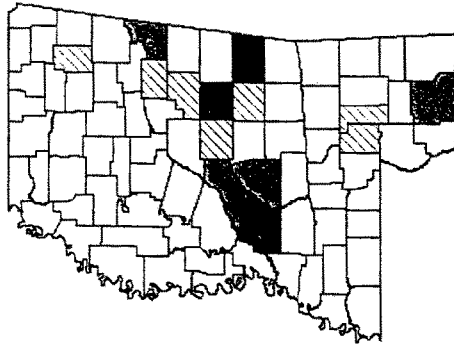
Choctaw Electronics Employees

	Employees	%	Est. Payroll	Est. State Tax
Altala	1	0.31%	\$ 15,947.82	\$ 317.76
Kemper	2	0.93%	\$ 47,843.46	\$ 953.27
Lauderdale	2	0.62%	\$ 31,895.64	\$ 635.51
Leake	21	8.41%	\$ 430,591.14	\$ 8,579.44
Neshoba	191	74.77%	\$3,827,476.80	\$ 76,261.66
Newton	11	4.36%	\$ 223,269.48	\$ 4,448.66
Scott	1	0.31%	\$ 15,947.82	\$ 317.76
Winston	26	10.28%	\$ 526,278.06	\$ 10,485.96
Total	255	100.00%	\$5,119,250.22	\$102,000.00



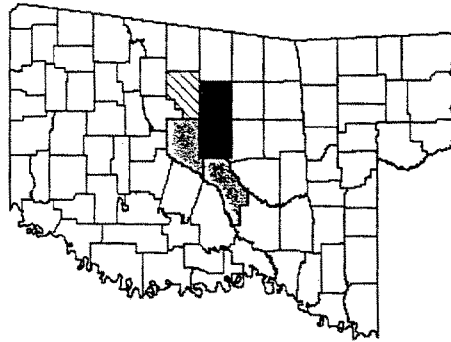
Choctaw Electronics Enterprise employs 175 Indians and 80 non-Indians, 166 of which live on the MBI Reservation and 89 of which live off the MBI Reservation.

Choctaw Electronics Purchases



Forrest	\$	639.00	0.10%
Harrison	\$	8,983.80	1.36%
Hinds	\$	74,040.20	11.24%
Lamar	\$	317.01	0.05%
Lauderdale	\$	402,390.83	61.08%
Leake	\$	546.00	0.08%
Lee	\$	501.60	0.08%
Lowndes	\$	7,963.43	1.21%
Madison	\$	34,942.91	5.30%
Neshoba	\$	82,111.89	12.46%
Newton	\$	643.35	0.10%
Oktibbeha	\$	375.00	0.06%
Rankin	\$	41,744.50	6.34%
Winston	\$	3,635.80	0.55%
Total		\$658,835.32	100.00%

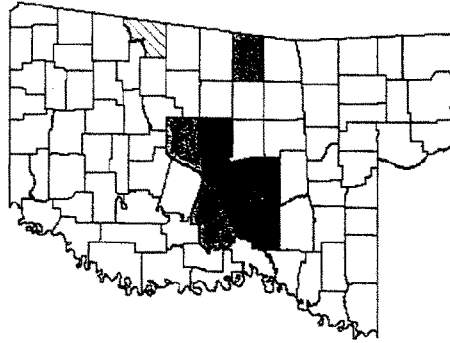
Choctaw Manufacturing Employees



Choctaw Manufacturing employs 144 Indians and 200 non-Indians, 144 of which live on the MBI Reservation and 200 of which live off the MBI Reservation.

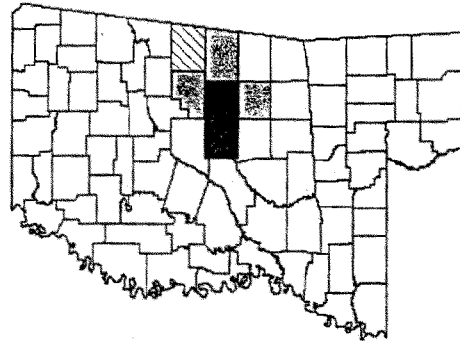
	Employees	%	Est. Payroll	Est. State Tax	Withheld
Attala	13	3.68%	\$ 182,310.23	\$ 5,063.20	
Leake	182	52.81%	\$2,329,629.15	\$ 72,671.86	
Madison	6	1.73%	\$ 76,381.28	\$ 2,382.68	
Neshoba	143	41.56%	\$1,833,150.80	\$ 57,184.42	
Winston	1	0.22%	\$ 9,547.66	\$ 297.84	
Total	344	100.00%	\$4,411,019.12	\$137,600.00	

Choctaw Manufacturing Purchases



Attala	\$ 9,824.47	2.63%
Hinds	\$ 46,672.79	12.47%
Lauderdale	\$ 18,114.09	4.84%
Leake	\$ 43,784.85	11.70%
Lee	\$ 12,578.35	3.36%
Lowndes	\$ 39.52	0.01%
Madison	\$ 85,355.18	22.81%
Rankin	\$ 142,828.85	38.17%
Yazoo	\$ 15,012.00	4.01%
Total	\$374,210.10	100.00%

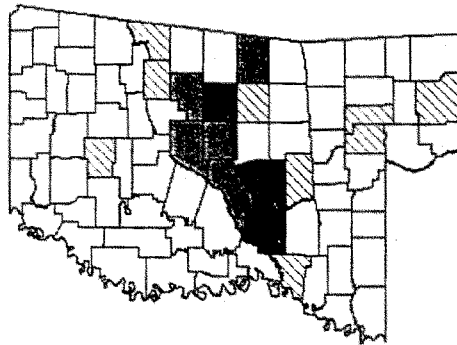
Choctaw Residential Employees



	Employees	%	Est. Payroll	Est. State Tax	Withheld
Kemper	5	3.77%	\$ 73,483.30	\$ 2,007.55	
Leake	15	10.94%	\$ 213,101.58	\$ 5,821.89	
Neshoba	100	75.09%	\$1,462,317.73	\$ 39,950.19	
Newton	8	6.04%	\$ 117,573.28	\$ 3,212.08	
Noxubee	1	0.38%	\$ 7,348.33	\$ 200.75	
Winston	5	3.77%	\$ 73,483.30	\$ 2,007.55	
Total	133	100.00%	\$1,947,307.53	\$ 53,200.00	

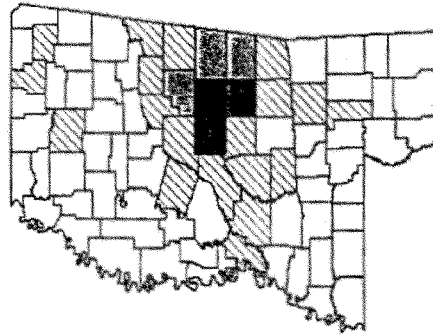
Choctaw Residential employs 62 Indians and 71 non-Indians, 51 of which live on the MBCI Reservation and 82 of which live off the MBCI Reservation.

Choctaw Residential Purchases



Attala	\$ 22,751.53	3.13%
Claiborne	\$ 7,064.60	0.97%
Forrest	\$ 6,069.70	0.84%
Harrison	\$ 3,370.84	0.46%
Hinds	\$285,951.99	39.38%
Lamar	\$ 5,555.00	0.77%
Lauderdale	\$ 20,070.41	2.76%
Leake	\$ 19,199.29	2.64%
Lowndes	\$ 5,426.77	0.75%
Madison	\$ 12,368.00	1.70%
Neshoba	\$187,487.99	25.82%
Newton	\$ 414.00	0.06%
Oktober	\$ 4,306.13	0.59%
Rankin	\$135,018.47	18.59%
Simpson	\$ 1,230.52	0.17%
Winston	\$ 9,412.33	1.30%
Yalobush	\$ 427.80	0.06%
Total	\$726,125.37	100.00%

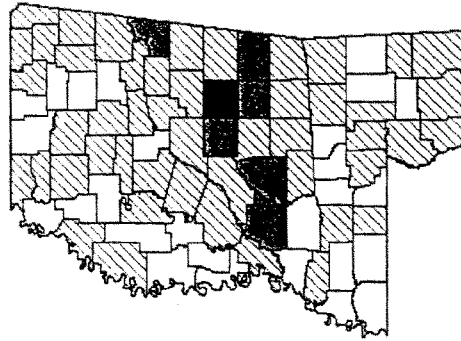
MBCI Employees



MBCI employs 1152 Indians and 472 non-Indians, 1092 of which live on the MBCI Reservation and 532 live off the MBCI Reservation.

	Employees	%	Est. Payroll	Est. State Tax
Altala	13	0.80%	\$ 232,430	\$ 5,200
Choctaw	1	0.06%	\$ 17,879	\$ 400
Clarke	2	0.12%	\$ 35,758	\$ 800
Forrest	1	0.06%	\$ 17,879	\$ 400
Hinds	7	0.43%	\$ 125,155	\$ 2,800
Holmes	1	0.06%	\$ 17,879	\$ 400
Jasper	10	0.62%	\$ 178,792	\$ 4,000
Jones	4	0.25%	\$ 71,517	\$ 1,600
Kemper	20	1.23%	\$ 357,584	\$ 8,000
Lafayette	1	0.06%	\$ 17,879	\$ 400
Lauderdale	25	1.54%	\$ 446,981	\$ 10,000
Leake	240	14.78%	\$ 4,291,013	\$ 96,000
Lowndes	1	0.06%	\$ 17,879	\$ 400
Madison	11	0.68%	\$ 196,671	\$ 4,400
Neshoba	1001	61.64%	\$17,897,099	\$400,400
Newton	217	13.36%	\$ 3,879,791	\$ 86,800
Noxubee	1	0.06%	\$ 17,879	\$ 400
Oklibbeha	5	0.31%	\$ 89,396	\$ 2,000
Pearl River	1	0.06%	\$ 17,879	\$ 400
Prentiss	1	0.06%	\$ 17,879	\$ 400
Rankin	8	0.49%	\$ 143,034	\$ 3,200
Scott	7	0.43%	\$ 125,155	\$ 2,800
Simpson	1	0.06%	\$ 17,879	\$ 400
Tippah	1	0.06%	\$ 17,879	\$ 400
Warren	2	0.12%	\$ 35,758	\$ 800
Winston	42	2.59%	\$ 750,927	\$ 16,800
Total	1624	100.00%	\$29,035,853	\$649,600

MBCI Purchases



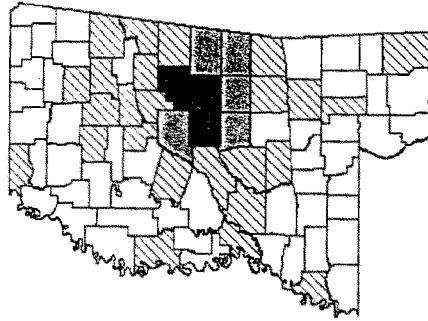
Alcorn	\$ 5,174.50	0.01%
Attala	\$ 536,129.90	0.92%
Bolivar	\$ 24,726.82	0.04%
Calhoun	\$ 465.00	0.00%
Carroll	\$ 632.20	0.00%
Choctaw	\$ 2,251.78	0.00%
Clarke	\$ 8,834.88	0.02%
Clay	\$ 72,594.27	0.12%
Copiah	\$ 75.00	0.00%
De Soto	\$ 55,735.50	0.10%
Forrest	\$ 217,055.71	0.37%

George	\$ 174.00	0.00%
Grenada	\$ 70.00	0.00%
Hancock	\$ 2,030.00	0.00%
Harrison	\$ 37,390.73	0.06%
Hinds	\$ 5,126,350.21	8.79%
Holmes	\$ 12,559.69	0.02%
Itawamba	\$ 68,704.00	0.12%
Jackson	\$ 24,581.38	0.04%
Jasper	\$ 30,628.50	0.05%
Jefferson	\$ 1,414.81	0.00%
Jones	\$ 77,286.70	0.13%
Kemper	\$ 202,253.84	0.35%
Lafayette	\$ 33,923.67	0.06%
Lamar	\$ 78,963.44	0.14%
Lauderdale	\$ 1,942,133.27	3.33%
Leake	\$ 3,997,568.98	6.86%
Lee	\$ 227,045.83	0.39%
Lefflore	\$ 22,184.67	0.04%
Lincoln	\$ 5,215.33	0.01%
Lowndes	\$ 584,522.67	1.02%
Madison	\$ 514,335.13	0.88%
Marion	\$ 558.70	0.00%
Monroe	\$ 85.00	0.00%
Neshoba	\$38,807,202.86	65.56%
Newton	\$ 2,446,223.46	4.20%
Noxubee	\$ 12,212.31	0.02%
Oktibbeha	\$ 234,117.18	0.40%
Panola	\$ 85.00	0.00%
Pearl River	\$ 2,227.07	0.00%
Pike	\$ 1,058.50	0.00%
Prentiss	\$ 178.00	0.00%
Rankin	\$ 2,348,121.65	4.03%
Scott	\$ 124,016.50	0.21%

MBCI Purchases (Cont.)

Simpson	\$	138,585.84	0.24%
Smith	\$	1,511.63	0.00%
Tate	\$	3,882.00	0.01%
Tippah	\$	330.00	0.00%
Webster	\$	12.00	0.00%
Winston	\$	232,880.88	0.40%
Yalobusha	\$	200.00	0.00%
Yazoo	\$	150.00	0.00%
Total		\$58,302,754.86	100.00%

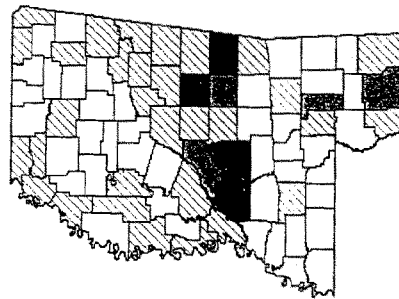
SilverStar Employees



The SilverStar Casino employs 434 Indians and 1766 non-Indians, 454 of which live on the MBI Reservation and 1746 of which live off the MBI Reservation.

	Employees	%	Est. Payroll	Est. State Tax	Withheld
Adams	1	0.03%	\$ 12,103	\$ 291	\$ 34,327
Attala	86	3.90%	\$ 1,428,178	\$ 34,327	\$ 291
Calhoun	1	0.03%	\$ 12,103	\$ 291	\$ 1,164
Chickasaw	3	0.13%	\$ 48,413	\$ 1,164	\$ 1,455
Choctaw	4	0.17%	\$ 60,516	\$ 1,455	\$ 1,164
Clarke	3	0.13%	\$ 48,413	\$ 1,164	\$ 291
DeSoto	1	0.03%	\$ 12,103	\$ 291	\$ 2,909
Forrest	1	0.03%	\$ 12,103	\$ 291	\$ 582
Hinds	7	0.33%	\$ 121,032	\$ 2,909	\$ 2,036
Holmes	1	0.07%	\$ 24,206	\$ 582	\$ 1,164
Jackson	5	0.23%	\$ 84,722	\$ 2,036	\$ 1,164
Jasper	3	0.13%	\$ 48,413	\$ 1,164	\$ 27,636
Jones	3	0.13%	\$ 48,413	\$ 1,164	\$ 44,218
Kemper	69	3.14%	\$ 1,149,805	\$ 27,636	\$ 129,164
Lauderdale	111	5.02%	\$ 1,839,688	\$ 44,218	\$ 1,745
Leake	323	14.68%	\$ 5,373,824	\$ 129,164	\$ 5,236
Lowndes	4	0.20%	\$ 72,619	\$ 1,745	\$ 291
Madison	13	0.60%	\$ 217,858	\$ 5,236	\$ 291
Montgomery	1	0.03%	\$ 12,103	\$ 291	\$ 387,200
Neshoba	968	44.00%	\$16,109,369	\$ 387,200	\$ 72,436
Newton	181	8.23%	\$ 3,013,699	\$ 72,436	\$ 7,564
Noxubee	19	0.86%	\$ 314,683	\$ 7,564	\$ 4,364
Oktibbeha	11	0.50%	\$ 181,548	\$ 4,364	\$ 291
Pontotoc	1	0.03%	\$ 12,103	\$ 291	\$ 6,400
Rankin	16	0.73%	\$ 266,271	\$ 6,400	\$ 14,255
Scott	36	1.62%	\$ 593,057	\$ 14,255	\$ 582
Simpson	1	0.07%	\$ 24,206	\$ 582	\$ 582
Warren	1	0.07%	\$ 24,206	\$ 582	\$ 291
Washington	1	0.03%	\$ 12,103	\$ 291	\$ 582
Webster	1	0.07%	\$ 24,206	\$ 582	\$ 129,455
Winston	324	14.71%	\$ 5,385,927	\$ 129,455	\$ 291
Yalobusha	1	0.03%	\$ 12,103	\$ 291	\$ 880,001
Total	2200	100.00%	\$36,612,202	\$ 880,001	

SilverStar Purchases

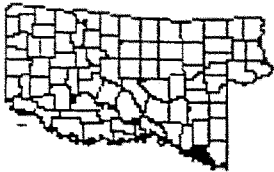


Alcorn	\$	120,173.01	0.69%
Atala	\$	53,551.29	0.31%
Chotaw	\$	620.00	0.00%
Clarke	\$	37.99	0.00%
Clay	\$	4,911.76	0.03%
Coahoma	\$	22,350.08	0.13%
De Soto	\$	526.94	0.00%
Forrest	\$	208,402.61	1.19%
Hancock	\$	844.85	0.00%
Harrison	\$	578,694.80	3.30%
Hinds	\$	3,568,708.17	20.35%
Issaquena	\$	18,772.21	0.11%
Jackson	\$	914,265.82	5.21%
Jones	\$	516.30	0.00%
Kemper	\$	435.50	0.00%
Lafayette	\$	1,105.00	0.01%
Lamar	\$	103,390.65	0.59%
Lauderdale	\$	3,069,993.05	17.50%
Leake	\$	68,236.83	0.39%
Lee	\$	901.00	0.01%
Leflore	\$	6,090.45	0.03%
Lincoln	\$	76.00	0.00%
Lowndes	\$	20,801.79	0.12%
Madison	\$	207,260.27	1.18%
Monroe	\$	1,969.19	0.01%
Neshoba	\$	3,282,193.46	18.71%
Newton	\$	366,889.51	2.05%
Noxubee	\$	16,708.00	0.10%
Oktibbeha	\$	17,853.50	0.10%
Rankin	\$	4,722,930.54	26.93%
Scott	\$	97,760.91	0.56%
Sunflower	\$	853.92	0.00%
Tate	\$	30.00	0.00%
Tishomingo	\$	100.54	0.00%
Tunica	\$	1,319.24	0.01%
Warren	\$	21,284.40	0.12%
Washington	\$	50.00	0.00%
Winston	\$	26,651.94	0.15%
Yazoo	\$	12,661.04	0.07%
Total	\$	\$17,539,942.56	100.00%

What MBCI Does for Mississippi Counties

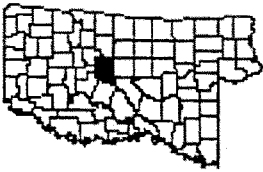
The existence of the Reservation and its diversified economic base causes the following impact by county:

Adams



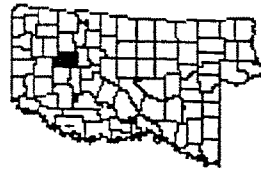
Total Employed by Reservation	1	Ann. Rent Paid in County	\$ -
Total Wages Paid	\$12,103.00	Property Taxes Paid in County	\$ 480.00
Dollars Spent in County	\$ 5,083.00	New Jobs Created in County	0
Leakage out of County	\$ -	Total Miles Commuted	66,000
MS Income Tax Paid	\$ 400.00	Product Purchased in County	\$ -

Attala



Total Employed by Reservation	117	Ann. Rent Paid in County	\$ 168,480
Total Wages Paid	\$1,951,317	Property Taxes Paid in County	\$ 480
Dollars Spent in County	\$ 819,553	New Jobs Created in County	0
Leakage out of County	\$ -	Total Miles Commuted	2,099,500
MS Income Tax Paid	\$ 46,800	Product Purchased in County	\$ 658,068

Calhoun



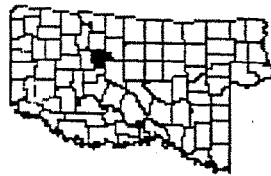
Total Employed by Reservation	1			
Total Wages Paid	\$	12,103	Ann. Rent Paid in County	\$ -
Dollars Spent in County	\$	1,576	Property Taxes Paid in County	\$ 480
Leakage out of County	\$	3,500	New Jobs Created in County	0
MS Income Tax Paid	\$	400	Total Miles Commuted	30,900
			Product Purchased in County	\$ 465

Chickasaw



Total Employed by Reservation	3			
Total Wages Paid	\$	48,413	Ann. Rent Paid in County	\$ -
Dollars Spent in County	\$	12,810	Property Taxes Paid in County	\$ 1,440
Leakage out of County	\$	35,803	New Jobs Created in County	0.5
MS Income Tax Paid	\$	1,200	Total Miles Commuted	66,000
			Product Purchased in County	\$ -

Choctaw



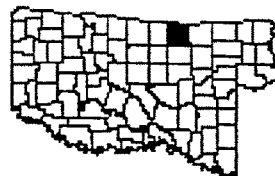
Total Employed by Reservation
Total Wages Paid
Dollars Spent in County
Leakage out of County
MS Income Tax Paid

5
\$ 78,395
\$ 5,597
\$ 27,329
\$ 2,000

Ann. Rent Paid in County
Property Taxes Paid in County
New Jobs Created in County
Total Miles Commuted
Product Purchased in County

\$ 7,200
\$ 2,400
0
66,000
\$ 3,924

Clarke



Total Employed by Reservation
Total Wages Paid
Dollars Spent in County
Leakage out of County
MS Income Tax Paid

5
\$ 84,171
\$ 707
\$ 34,635
\$ 2,000

Ann. Rent Paid in County
Property Taxes Paid in County
New Jobs Created in County
Total Miles Commuted
Product Purchased in County

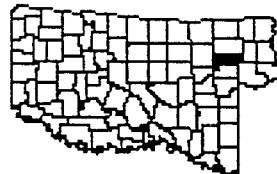
\$ 7,200
\$ 2,400
0
157,000
\$ 9,729

DeSoto



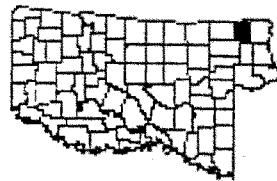
Total Employed by Reservation	1		
Total Wages Paid	\$ 12,103	Ann. Rent Paid in County	\$ -
Dollars Spent in County	\$ 2,237	Property Taxes Paid in County	\$ 480
Leakage out of County	\$ 2,846	New Jobs Created in County	0
MS Income Tax Paid	\$ 400	Total Miles Commuted	71,000
		Product Purchased in County	\$ 60,237

Forrest



Total Employed by Reservation	2		
Total Wages Paid	\$ 29,982	Ann. Rent Paid in County	\$ -
Dollars Spent in County	\$ 7,430	Property Taxes Paid in County	\$ 960
Leakage out of County	\$ 5,163	New Jobs Created in County	0
MS Income Tax Paid	\$ 800	Total Miles Commuted	101,500
		Product Purchased in County	\$ 439,573

George



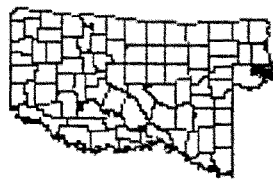
Total Employed by Reservation
Total Wages Paid
Dollars Spent in County
Leakage out of County
MS Income Tax Paid

2
\$ 28,656
\$ 11,434
\$ 600
\$ 800

Ann. Rent Paid in County
Property Taxes Paid in County
New Jobs Created in County
Total Miles Commuted
Product Purchased in County

\$ -
\$ 960
0
59,000
\$ 174

Hancock



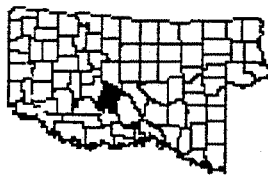
Total Employed by Reservation
Total Wages Paid
Dollars Spent in County
Leakage out of County
MS Income Tax Paid

1
\$ 14,238
\$ 3,911
\$ 2,107
\$ 400

Ann. Rent Paid in County
Property Taxes Paid in County
New Jobs Created in County
Total Miles Commuted
Product Purchased in County

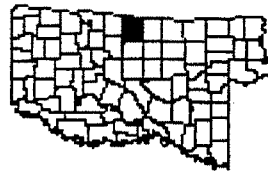
\$ -
\$ 480
0
21,000
\$ 2,875

Holmes

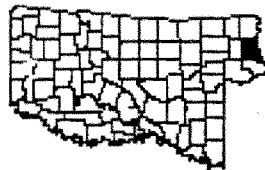


Total Employed by Reservation	2		Ann. Rent Paid in County	\$ -
Total Wages Paid	\$ 42,085		Property Taxes Paid in County	\$ 960
Dollars Spent in County	\$ 5,303		New Jobs Created in County	0
Leakage out of County	\$ 12,373		Total Miles Commuted	49,000
MS Income Tax Paid	\$ 800		Product Purchased in County	\$ 12,560

Kemper



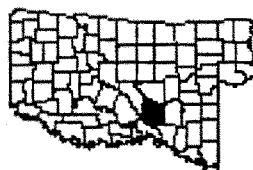
Total Employed by Reservation	202		Ann. Rent Paid in County	\$ 290,880
Total Wages Paid	\$ 3,303,020		Property Taxes Paid in County	\$ 960
Dollars Spent in County	\$ 83,236		New Jobs Created in County	3.8
Leakage out of County	\$ 1,304,032		Total Miles Commuted	2,829,000
MS Income Tax Paid	\$ 80,800		Product Purchased in County	\$ 308,520

Harrison

Total Employed by Reservation
 Total Wages Paid
 Dollars Spent in County
 Leakage out of County
 MS Income Tax Paid

26
 \$ 479,750
 \$ 201,500
 \$ -
 \$ 10,400

Ann. Rent Paid in County \$ 37,440
 Property Taxes Paid in County \$ 12,480
 New Jobs Created in County 15.7
 Total Miles Commuted 219,000
 Product Purchased in County \$1,378,444

Hinds

Total Employed by Reservation
 Total Wages Paid
 Dollars Spent in County
 Leakage out of County
 MS Income Tax Paid

14
 \$ 246,187
 \$ 103,398
 \$ -
 \$ 5,600

Ann. Rent Paid in County \$ 20,160
 Property Taxes Paid in County \$ 6,720
 New Jobs Created in County 116.8
 Total Miles Commuted 677,500
 Product Purchased in County \$11,584,032

Jackson

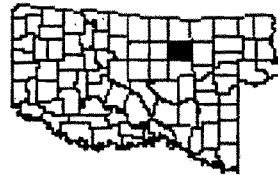


Total Employed by Reservation
Total Wages Paid
Dollars Spent in County
Leakage out of County
MS Income Tax Paid

132
\$2,678,435
\$ 888,705
\$ 236,237
\$ 52,800

Ann. Rent Paid in County \$ 190,080
Property Taxes Paid in County \$ 63,360
New Jobs Created in County 11.5
Total Miles Commuted 1,131,000
Product Purchased in County \$ 1,070,627

Jasper

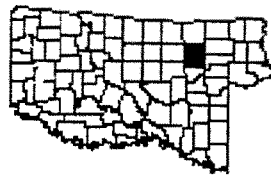


Total Employed by Reservation
Total Wages Paid
Dollars Spent in County
Leakage out of County
MS Income Tax Paid

13
\$ 227,205
\$ 21,948
\$ 73,478
\$ 5,200

Ann. Rent Paid in County \$ 18,720
Property Taxes Paid in County \$ 6,240
New Jobs Created in County 0.5
Total Miles Commuted 407,000
Product Purchased in County \$ 30,628

Jones



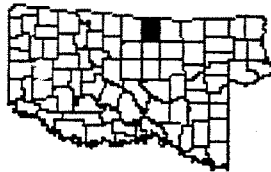
Total Employed by Reservation	7		
Total Wages Paid	\$ 119,930		
Dollars Spent in County	\$ 50,371		
Leakage out of County	\$ -		
MS Income Tax Paid	\$ 2,800		
Ann. Rent Paid in County		\$ 10,080	
Property Taxes Paid in County		\$ 6,240	
New Jobs Created in County		0.75	
Total Miles Commuted		297,000	
Product Purchased in County		\$ 25,689	

Lafayette



Total Employed by Reservation	1		
Total Wages Paid	\$ 17,879		
Dollars Spent in County	\$ 7,509		
Leakage out of County	\$ -		
MS Income Tax Paid	\$ 400		
Ann. Rent Paid in County		\$ -	
Property Taxes Paid in County		\$ 480	
New Jobs Created in County		0.86	
Total Miles Commuted		62,000	
Product Purchased in County		\$ 78,392	

Lauderdale



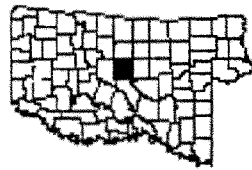
Total Employed by Reservation	175	
Total Wages Paid	\$2,871,391	
Dollars Spent in County	\$1,205,984	
Leakage out of County	\$ -	
MS Income Tax Paid	\$ 70,000	
Ann. Rent Paid in County		\$ 252,000
Property Taxes Paid in County		\$ 84,000
New Jobs Created in County		59
Total Miles Commuted		3,229,000
Product Purchased in County		\$ 4,708,055

Lawrence



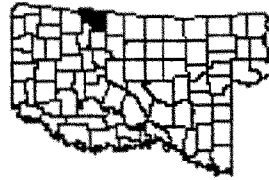
Total Employed by Reservation	8	
Total Wages Paid	\$ 185,820	
Dollars Spent in County	\$ 10,146	
Leakage out of County	\$ 67,898	
MS Income Tax Paid	\$ 3,200	
Ann. Rent Paid in County		\$ 11,520
Property Taxes Paid in County		\$ 3,840
New Jobs Created in County		19
Total Miles Commuted		560,000
Product Purchased in County		\$ 1,942,133

Leake



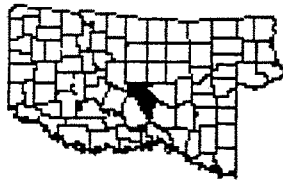
Total Employed by Reservation	843		
Total Wages Paid	\$14,835,572		
Dollars Spent in County	\$ 4,922,443		
Leakage out of County	\$ 1,308,498		
MS Income Tax Paid	\$ 337,200		
Ann. Rent Paid in County		\$ 1,213,920	
Property Taxes Paid in County		\$ 404,640	
New Jobs Created in County		91	
Total Miles Commuted		9,812,000	
Product Purchased in County		\$ 4,247,525	

Lowndes



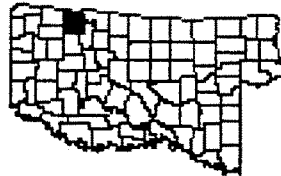
Total Employed by Reservation	5		
Total Wages Paid	\$ 90,498		
Dollars Spent in County	\$ 38,009		
Leakage out of County	\$ -		
MS Income Tax Paid	\$ 2,000		
Ann. Rent Paid in County		\$ 7,200	
Property Taxes Paid in County		\$ 2,400	
New Jobs Created in County		6.4	
Total Miles Commuted		209,000	
Product Purchased in County		\$ 632,533	

Madison



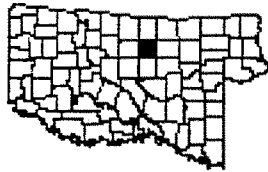
Total Employed by Reservation	30			
Total Wages Paid	\$ 517,111			
Dollars Spent in County	\$ 217,187			
Leakage out of County	\$ -			
MS Income Tax Paid	\$ 12,000			
		Ann. Rent Paid in County	\$ 43,200	
		Property Taxes Paid in County	\$ 14,400	
		New Jobs Created in County	2	
		Total Miles Commuted	1,034,500	
		Product Purchased in County	\$ 560	

Monroe



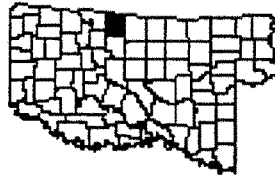
Total Employed by Reservation	1			
Total Wages Paid	\$ 12,103			
Dollars Spent in County	\$ 5,083			
Leakage out of County	\$ -			
MS Income Tax Paid	\$ 400			
		Ann. Rent Paid in County	\$ -	
		Property Taxes Paid in County	\$ 480	
		New Jobs Created in County	0	
		Total Miles Commuted	34,000	
		Product Purchased in County	\$ 2,054	

Newton



Total Employed by Reservation	655	
Total Wages Paid	\$10,890,035	
Dollars Spent in County	\$ 2,241,169	
Leakage out of County	\$ 2,573,815	
MS Income Tax Paid	\$ 262,000	
Ann. Rent Paid in County		\$ 943,200
Property Taxes Paid in County		\$ 314,400
New Jobs Created in County		539
Total Miles Commuted		11,137,000
Product Purchased in County		\$51,644,802

Noxubee



Total Employed by Reservation	34	
Total Wages Paid	\$ 531,724	
Dollars Spent in County	\$ 66,998	
Leakage out of County	\$ 206,326	
MS Income Tax Paid	\$ 13,600	
Ann. Rent Paid in County		\$ 48,960
Property Taxes Paid in County		\$ 16,320
New Jobs Created in County		1
Total Miles Commuted		848,000
Product Purchased in County		\$ 47,995

Montgomery



Total Employed by Reservation
Total Wages Paid
Dollars Spent in County
Leakage out of County
MS Income Tax Paid

1
\$ 12,103
\$ 4,437
\$ 1,390
\$ 400

Ann. Rent Paid in County \$ -
Property Taxes Paid in County \$ 480
New Jobs Created in County 0
Total Miles Commuted 31,500
Product Purchased in County \$ -

Neshoba

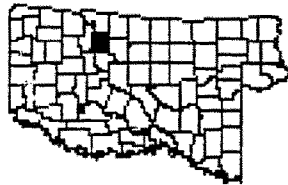


Total Employed by Reservation
Total Wages Paid
Dollars Spent in County
Leakage out of County
MS Income Tax Paid

2867
\$50,467,063
\$21,196,166
\$ -
\$ 1,146,800

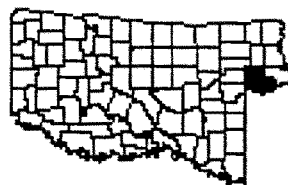
Ann. Rent Paid in County \$ 4,128,480
Property Taxes Paid in County \$ 1,376,160
New Jobs Created in County 1020
Total Miles Commuted 16,116,000
Product Purchased in County \$51,644,802

Oktibbeha



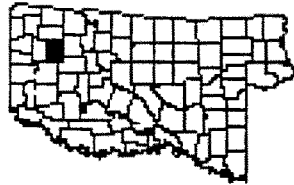
Total Employed by Reservation	16		
Total Wages Paid	\$ 270,944	Ann. Rent Paid in County	\$ 23,520
Dollars Spent in County	\$ 113,796	Property Taxes Paid in County	\$ 7,680
Leakage out of County	\$ -	New Jobs Created in County	36
MS Income Tax Paid	\$ 6,400	Total Miles Commuted	477,000
		Product Purchased in County	\$ 263,688

Pearl River



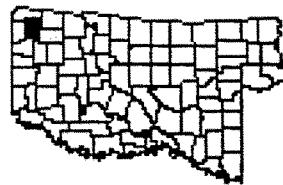
Total Employed by Reservation	1		
Total Wages Paid	\$ 17,879	Ann. Rent Paid in County	\$ -
Dollars Spent in County	\$ 5,406	Property Taxes Paid in County	\$ 480
Leakage out of County	\$ 2,103	New Jobs Created in County	0
MS Income Tax Paid	\$ 400	Total Miles Commuted	93,500
		Product Purchased in County	\$ 2,227

Pontotoc

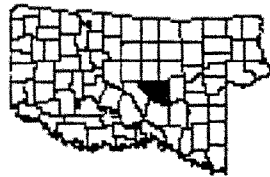


Total Employed by Reservation	1		
Total Wages Paid	12,103		
Dollars Spent in County	3,354		
Leakage out of County	1,729		
MS Income Tax Paid	400		
		Ann. Rent Paid in County	\$ -
		Property Taxes Paid in County	\$ 480
		New Jobs Created in County	0
		Total Miles Commuted	44,000
		Product Purchased in County	\$ -

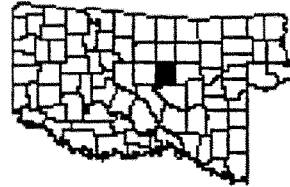
Prentiss



Total Employed by Reservation	1		
Total Wages Paid	17,879		
Dollars Spent in County	5,031		
Leakage out of County	2,478		
MS Income Tax Paid	400		
		Ann. Rent Paid in County	\$ -
		Property Taxes Paid in County	\$ 480
		New Jobs Created in County	0
		Total Miles Commuted	81,000
		Product Purchased in County	\$ 178

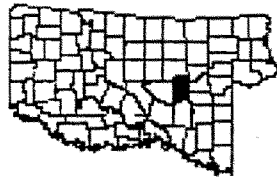
Rankin

Total Employed by Reservation	26		Ann. Rent Paid in County	\$ 37,440
Total Wages Paid	\$ 437,692		Property Taxes Paid in County	\$ 12,480
Dollars Spent in County	\$ 88,238		New Jobs Created in County	83
Leakage out of County	\$ 95,597		Total Miles Commuted	1,118,000
MS Income Tax Paid	\$ 10,400		Product Purchased in County	\$ 8,165,107

Scott

Total Employed by Reservation	46		Ann. Rent Paid in County	\$ 66,240
Total Wages Paid	\$ 762,547		Property Taxes Paid in County	\$ 12,480
Dollars Spent in County	\$ 217,783		New Jobs Created in County	22
Leakage out of County	\$ 102,486		Total Miles Commuted	1,255,000
MS Income Tax Paid	\$ 18,400		Product Purchased in County	\$ 3,093,990

Simpson

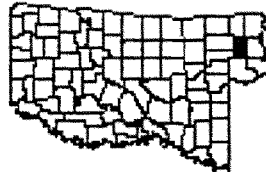


Total Employed by Reservation
 Total Wages Paid
 Dollars Spent in County
 Leakage out of County
 MS Income Tax Paid

2
 \$ 42,085
 \$ 12,196
 \$ 5,479
 \$ 800

Ann. Rent Paid in County \$ -
 Property Taxes Paid in County \$ 960
 New Jobs Created in County 1.3
 Total Miles Commuted 117,000
 Product Purchased in County \$ 125,247

Stone

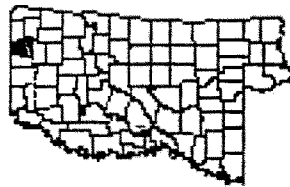


Total Employed by Reservation
 Total Wages Paid
 Dollars Spent in County
 Leakage out of County
 MS Income Tax Paid

2
 \$ 51,883
 \$ 6,537
 \$ 15,253
 \$ 800

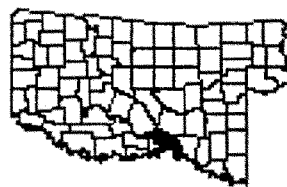
Ann. Rent Paid in County \$ -
 Property Taxes Paid in County \$ 960
 New Jobs Created in County 0
 Total Miles Commuted 47,000
 Product Purchased in County \$ 1,512

Tippah



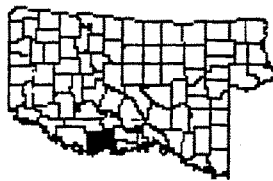
Total Employed by Reservation	1				
Total Wages Paid	17,879	\$		Ann. Rent Paid in County	\$ -
Dollars Spent in County	5,031	\$		Property Taxes Paid in County	\$ 480
Leakage out of County	2,478	\$		New Jobs Created in County	0
MS Income Tax Paid	400	\$		Total Miles Commuted	70,500
				Product Purchased in County	\$ 330

Warren



Total Employed by Reservation	3				
Total Wages Paid	59,964	\$		Ann. Rent Paid in County	\$ -
Dollars Spent in County	25,185	\$		Property Taxes Paid in County	\$ 1,440
Leakage out of County	-	\$		New Jobs Created in County	0.5
MS Income Tax Paid	1,200	\$		Total Miles Commuted	254,000
				Product Purchased in County	\$ 21,897

Washington



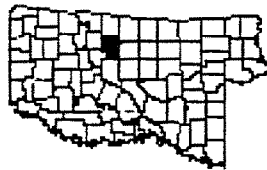
Total Employed by Reservation	1		
Total Wages Paid	12,103		
Dollars Spent in County	5,083		
Leakage out of County	-		
MS Income Tax Paid	400		
		Ann. Rent Paid in County	\$ -
		Property Taxes Paid in County	\$ 480
		New Jobs Created in County	0
		Total Miles Commuted	53,000
		Product Purchased in County	\$ 50

Webster



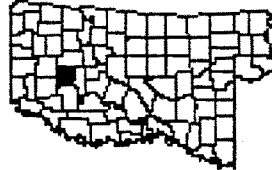
Total Employed by Reservation	1		
Total Wages Paid	24,206		
Dollars Spent in County	2,541		
Leakage out of County	7,625		
MS Income Tax Paid	400		
		Ann. Rent Paid in County	\$ -
		Property Taxes Paid in County	\$ 480
		New Jobs Created in County	0
		Total Miles Commuted	44,000
		Product Purchased in County	\$ 12

Winston



Total Employed by Reservation	571		
Total Wages Paid	\$ 9,402,290		
Dollars Spent in County	\$ 3,475,086		
Leakage out of County	\$ 474,104		
MS Income Tax Paid	\$ 228,400		
		Ann. Rent Paid in County	\$ 822,240
		Property Taxes Paid in County	\$ 274,000
		New Jobs Created in County	97.6
		Total Miles Commuted	7,420,500
		Product Purchased in County	\$ 360,535

Yalobusha



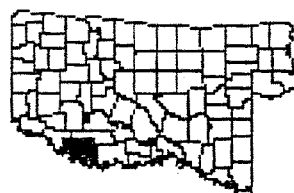
Total Employed by Reservation	1		
Total Wages Paid	\$ 12,103		
Dollars Spent in County	\$ 1,220		
Leakage out of County	\$ 3,863		
MS Income Tax Paid	\$ 400		
		Ann. Rent Paid in County	\$ -
		Property Taxes Paid in County	\$ 480
		New Jobs Created in County	0
		Total Miles Commuted	43,000
		Product Purchased in County	\$ 628

Alcorn



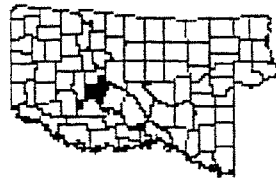
Total Employed by Reservation	0		
Total Wages Paid	\$		
Dollars Spent in County	\$		
Leakage out of County	\$		
MS Income Tax Paid	\$		
Ann. Rent Paid in County	\$		-
Property Taxes Paid in County	\$		-
New Jobs Created in County			1.25
Total Miles Commuted			0
Product Purchased in County	\$		125,347

Bolivar



Total Employed by Reservation	0		
Total Wages Paid	\$		
Dollars Spent in County	\$		
Leakage out of County	\$		
MS Income Tax Paid	\$		
Ann. Rent Paid in County	\$		-
Property Taxes Paid in County	\$		-
New Jobs Created in County			0.25
Total Miles Commuted			
Product Purchased in County	\$		24,726

Carroll



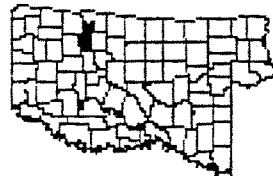
Total Employed by Reservation	\$	0	Ann. Rent Paid in County	\$	-
Total Wages Paid	\$	-	Property Taxes Paid in County	\$	-
Dollars Spent in County	\$	-	New Jobs Created in County		0
Leakage out of County	\$	-	Total Miles Commuted		632
MS Income Tax Paid	\$	-	Product Purchased in County	\$	

Claiborne



Total Employed by Reservation	\$	0	Ann. Rent Paid in County	\$	-
Total Wages Paid	\$	-	Property Taxes Paid in County	\$	-
Dollars Spent in County	\$	-	New Jobs Created in County		0
Leakage out of County	\$	-	Total Miles Commuted		7,064
MS Income Tax Paid	\$	-	Product Purchased in County	\$	

Clay



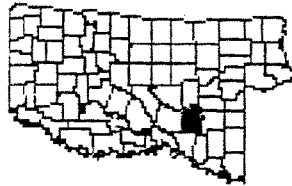
Total Employed by Reservation	0		Ann. Rent Paid in County	\$ -
Total Wages Paid	\$ -		Property Taxes Paid in County	\$ -
Dollars Spent in County	\$ -		New Jobs Created in County	0.77
Leakage out of County	\$ -		Total Miles Commuted	
MS Income Tax Paid	\$ -		Product Purchased in County	\$ 77,506

Coahoma



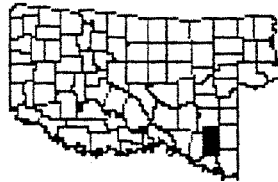
Total Employed by Reservation	0		Ann. Rent Paid in County	\$ -
Total Wages Paid	\$ -		Property Taxes Paid in County	\$ -
Dollars Spent in County	\$ -		New Jobs Created in County	0.22
Leakage out of County	\$ -		Total Miles Commuted	
MS Income Tax Paid	\$ -		Product Purchased in County	\$ 22,350

Copiah



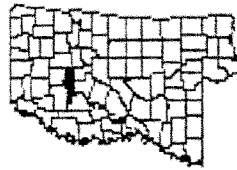
Total Employed by Reservation	0				
Total Wages Paid	\$				
Dollars Spent in County	\$				
Leakage out of County	\$				
MS Income Tax Paid	\$				
Ann. Rent Paid in County				\$	-
Property Taxes Paid in County				\$	-
New Jobs Created in County					0
Total Miles Commuted					
Product Purchased in County				\$	75

Franklin



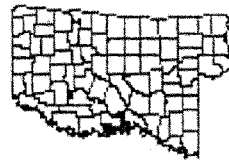
Total Employed by Reservation	0				
Total Wages Paid	\$				
Dollars Spent in County	\$				
Leakage out of County	\$				
MS Income Tax Paid	\$				
Ann. Rent Paid in County				\$	-
Property Taxes Paid in County				\$	-
New Jobs Created in County					0
Total Miles Commuted					
Product Purchased in County				\$	23

Grenada



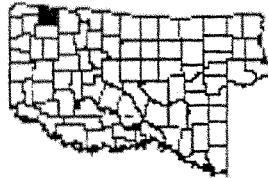
Total Employed by Reservation	\$	0	Ann. Rent Paid in County	\$	-
Total Wages Paid	\$	-	Property Taxes Paid in County	\$	-
Dollars Spent in County	\$	3,261	New Jobs Created in County		0
Leakage out of County	\$	-	Total Miles Commuted		
MS Income Tax Paid	\$	-	Product Purchased in County	\$	70

Issaquena



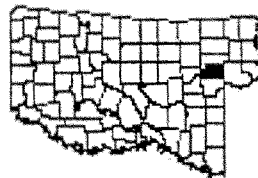
Total Employed by Reservation	\$	0	Ann. Rent Paid in County	\$	-
Total Wages Paid	\$	-	Property Taxes Paid in County	\$	-
Dollars Spent in County	\$	-	New Jobs Created in County		0
Leakage out of County	\$	-	Total Miles Commuted		
MS Income Tax Paid	\$	-	Product Purchased in County	\$	18,772

Hawamba



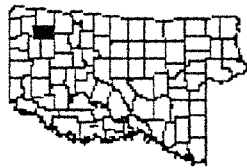
Total Employed by Reservation	0	Ann. Rent Paid in County	\$ -
Total Wages Paid	\$ -	Property Taxes Paid in County	\$ -
Dollars Spent in County	\$ -	New Jobs Created in County	0.68
Leakage out of County	\$ -	Total Miles Commuted	
MS Income Tax Paid	\$ -	Product Purchased in County	\$ 68,704

Lamar



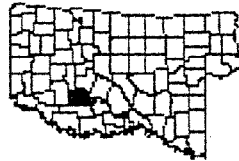
Total Employed by Reservation	0	Ann. Rent Paid in County	\$ -
Total Wages Paid	\$ -	Property Taxes Paid in County	\$ -
Dollars Spent in County	\$ 11,784	New Jobs Created in County	1.55
Leakage out of County	\$ -	Total Miles Commuted	
MS Income Tax Paid	\$ -	Product Purchased in County	\$ 146,860

Lee



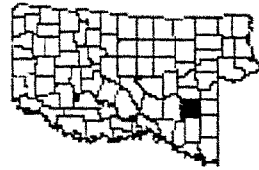
Total Employed by Reservation	0		Ann. Rent Paid in County	\$ -
Total Wages Paid		\$ -	Property Taxes Paid in County	\$ -
Dollars Spent in County	28,394	\$	New Jobs Created in County	2.7
Leakage out of County	-	\$	Total Miles Commuted	
MS Income Tax Paid	-	\$	Product Purchased in County	\$ 244,027

Leftore



Total Employed by Reservation	0		Ann. Rent Paid in County	\$ -
Total Wages Paid		\$ -	Property Taxes Paid in County	\$ -
Dollars Spent in County	-	\$	New Jobs Created in County	0.28
Leakage out of County	-	\$	Total Miles Commuted	
MS Income Tax Paid	-	\$	Product Purchased in County	\$ 28,275

Lincoln



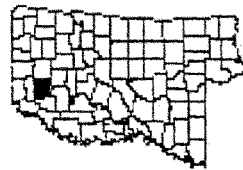
Total Employed by Reservation				
Total Wages Paid	\$	0	Ann. Rent Paid in County	\$ -
Dollars Spent in County	\$	-	Property Taxes Paid in County	\$ -
Leakage out of County	\$	34,628	New Jobs Created in County	0.4
MS Income Tax Paid	\$	-	Total Miles Commuted	
			Product Purchased in County	\$ 5,291

Marion



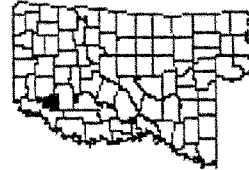
Total Employed by Reservation				
Total Wages Paid	\$	0	Ann. Rent Paid in County	\$ -
Dollars Spent in County	\$	-	Property Taxes Paid in County	\$ -
Leakage out of County	\$	-	New Jobs Created in County	0
MS Income Tax Paid	\$	-	Total Miles Commuted	
			Product Purchased in County	\$ 558

Panola



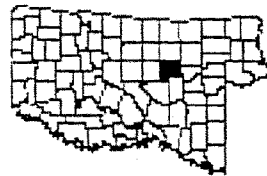
Total Employed by Reservation	\$	0	Ann. Rent Paid in County	\$	-
Total Wages Paid	\$	-	Property Taxes Paid in County	\$	-
Dollars Spent in County	\$	-	New Jobs Created in County		0
Leakage out of County	\$	-	Total Miles Commuted		85
MS Income Tax Paid	\$	-	Product Purchased in County	\$	

Quitman



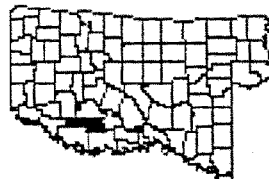
Total Employed by Reservation	\$	0	Ann. Rent Paid in County	\$	-
Total Wages Paid	\$	-	Property Taxes Paid in County	\$	-
Dollars Spent in County	\$	-	New Jobs Created in County		0
Leakage out of County	\$	-	Total Miles Commuted		50
MS Income Tax Paid	\$	-	Product Purchased in County	\$	

Smith



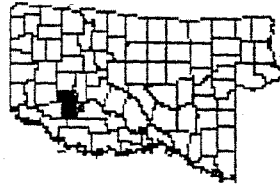
Total Employed by Reservation	\$	0	Ann. Rent Paid in County	\$	-
Total Wages Paid	\$	-	Property Taxes Paid in County	\$	-
Dollars Spent in County	\$	-	New Jobs Created in County		1.4
Leakage out of County	\$	-	Total Miles Commuted		
MS Income Tax Paid	\$	-	Product Purchased in County	\$	139,565

Sunflower



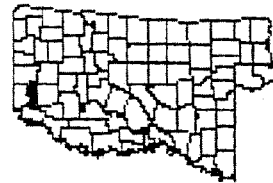
Total Employed by Reservation	\$	0	Ann. Rent Paid in County	\$	-
Total Wages Paid	\$	-	Property Taxes Paid in County	\$	-
Dollars Spent in County	\$	-	New Jobs Created in County		0
Leakage out of County	\$	-	Total Miles Commuted		
MS Income Tax Paid	\$	-	Product Purchased in County	\$	854

Tallahatchie



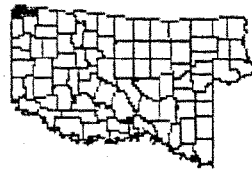
Total Employed by Reservation	0			
Total Wages Paid	\$			
Dollars Spent in County	\$			
Leakage out of County	\$			
MS Income Tax Paid	\$			
Ann. Rent Paid in County				
Property Taxes Paid in County				
New Jobs Created in County				0
Total Miles Commuted				
Product Purchased in County				1,121

Tate



Total Employed by Reservation	0			
Total Wages Paid	\$			
Dollars Spent in County	\$			
Leakage out of County	\$			
MS Income Tax Paid	\$			
Ann. Rent Paid in County				
Property Taxes Paid in County				
New Jobs Created in County				0
Total Miles Commuted				
Product Purchased in County				3,192

Tishomingo



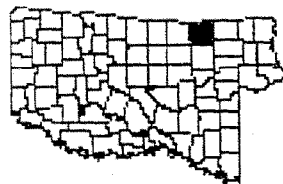
Total Employed by Reservation	0		
Total Wages Paid	\$		
Dollars Spent in County	\$		
Leakage out of County	\$		
MS Income Tax Paid	\$		
Ann. Rent Paid in County	\$		
Property Taxes Paid in County	\$		
New Jobs Created in County			0.26
Total Miles Commuted			
Product Purchased in County	\$		25,256

Tunica



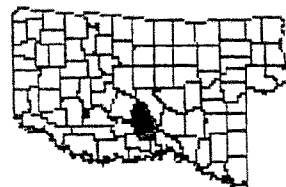
Total Employed by Reservation	0		
Total Wages Paid	\$		
Dollars Spent in County	\$		
Leakage out of County	\$		
MS Income Tax Paid	\$		
Ann. Rent Paid in County	\$		
Property Taxes Paid in County	\$		
New Jobs Created in County			0
Total Miles Commuted			
Product Purchased in County	\$		1,319

Wayne



Total Employed by Reservation	0		
Total Wages Paid	\$		
Dollars Spent in County	\$		
Leakage out of County	\$		
MS Income Tax Paid	\$		
Ann. Rent Paid in County	\$		-
Property Taxes Paid in County	\$		-
New Jobs Created in County			2.1
Total Miles Commuted			
Product Purchased in County	\$		211,025

Yazoo



Total Employed by Reservation	0		
Total Wages Paid	\$		
Dollars Spent in County	\$		
Leakage out of County	\$		
MS Income Tax Paid	\$		
Ann. Rent Paid in County	\$		-
Property Taxes Paid in County	\$		-
New Jobs Created in County			0
Total Miles Commuted			
Product Purchased in County	\$		27,823

Employees by Enterprise

	1st Amer. Plastic	1st Amer. Print.	Amer. Greet.	Chala Ent.	Choctaw Dev.	Choctaw Elect.	Choctaw Mfg.	Choctaw Resid.
Adams								
Altala				4		1	13	
Calhoun								
Chickasaw								
Choctaw								
Clarke								
DeSolo								
Forrest								
George		2						
Hancock		1						
Harrison	4	22						
Hinds								
Holmes								
Kemper			1	98	7	2		5
Jackson	58	69						
Jasper								
Jones								
Lafayette								
Lauderdale			1	34	2	2		
Lawrence			30	23	9	21	182	15
Leake	8						6	
Lowndes								
Madison								
Monroe								
Montgomery								
Neshoba			135	282	47	191	143	100
Newton			12	217	9	11		8
Noxubee				13				1
Oktibbeha								
Pearl River								
Pontotoc								
Prentiss								
Rankin				2				
Scott				2		1		

Employees by Enterprise (Cont.)		1st Amer. Plastic	1st Amer. Print.	Amer. Great.	Chata Ent.	Choctaw Dev.	Choctaw Elect.	Choctaw Mfg.	Choctaw Resid.
Simpson									
Stone									
Tippah									
Warren									
Washington									
Webster									
Winston				9	155	9	28	1	5
Yalobusha				188	830	83	255	344	133
Total		70	95	3.23%	14.26%	1.43%	4.38%	5.91%	2.28%
		1.20%	1.63%						

Employees by Enterprise (Cont.)

	MBCI	Silver Star	Total for County	
Adams	1	1	1	0.02%
Atala	13	86	117	2.01%
Calhoun		1	1	0.02%
Chickasaw		3	3	0.05%
Choctaw	1	4	5	0.09%
Clarke	2	3	5	0.09%
DeSoto		1	1	0.02%
Forrest	1	1	2	0.03%
George			2	0.03%
Hancock			1	0.02%
Harrison			26	0.45%
Hinds	7	7	14	0.24%
Holmes	1	1	2	0.03%
Kemper	20	69	202	3.47%
Jackson		5	132	2.27%
Jasper	10	3	13	0.22%
Jones	4	3	7	0.12%
Lafayette	1		1	0.02%
Lauderdale	25	111	175	3.01%
Lawrence			8	0.14%
Leake	240	323	843	14.48%
Lowndes	1	4	5	0.09%
Madison	11	13	30	0.52%
Monroe		1	1	0.02%
Montgomery		1	1	0.02%
Neshoba	1001	968	2867	49.24%
Newton	217	181	655	11.25%
Noxubee	1	19	34	0.58%
Oktibbeha	5	11	16	0.27%
Pearl River	1		1	0.02%
Pontotoc		1	1	0.02%
Prentiss	1		1	0.02%
Rankin	8	16	26	0.45%
Scott	7	36	46	0.79%

Imp	is by	apri	ont.	Silver Star	Total for County	
		MBCI				
Simpson		1	1		2	0.03%
Stone					2	0.03%
Tippah		1			1	0.02%
Warren		2	1		3	0.05%
Washington.			1		1	0.02%
Webster			1		1	0.02%
Winston		42	324		571	9.81%
Yalobusha			1		1	0.02%
Total		1624	2200		5822	100.00%
		27.89%	87.79%		100.00%	

Value by Enterprise

	1st Amer. Plastic	1st Amer. Print.	Amer. Greet.	Chata Ent.	Choctaw Dev.	Choctaw Elect.	Choctaw Mfg.
Adams							
Attala				\$ 56,775.36		\$ 15,947.82	\$ 217,986.41
Calhoun							
Chickasaw							
Choctaw							
Clarke							
DeSoto							
Forrest							
George		\$ 28,655.46					
Hancock		\$ 14,327.73					
Harrison	\$ 92,910.36	\$ 386,848.74					
Hinds							
Holmes							
Kemper			\$ 14,180.00	\$ 1,390,996.32	\$ 196,196.98	\$ 47,843.46	
Jackson	\$ 1,347,200.22	\$ 1,246,512.61					
Jasper							
Jones							
Lafayette							
Lauderdale			\$ 14,180.00	\$ 482,590.56	\$ 56,056.28	\$ 31,895.64	
Lawrence	\$ 185,820.72						
Leake			\$ 608,085.00	\$ 326,458.32	\$ 252,253.26	\$ 430,591.14	\$ 3,128,746.12
Lowndes							
Madison							\$ 102,581.84
Monroe							
Montgomery							
Neshoba	\$ 23,227.59		\$ 1,914,300.00	\$ 4,002,662.88	\$ 1,317,322.58	\$ 3,827,476.80	\$ 2,461,964.16
Newton			\$ 206,697.00	\$ 3,080,063.28	\$ 252,253.26	\$ 223,269.48	
Noxubee				\$ 184,519.92			
Oktibbeha							
Pearl River							
Pontotoc							
Prentiss							
Rankin				\$ 28,387.68			
Scott				\$ 28,387.68		\$ 15,947.82	

Vendors by Enterprise (Cont.)		1st Amer. Plastic	1st Amer. Print.	Amer. Greet.	Chata Ent.	Choctaw Dev.	Choctaw Elect.	Choctaw Mfg.
Simpson								
Stone	\$	23,227.59	\$ 28,655.46					
Tippah								
Warren								
Washington								
Webster				\$ 127,620.00	\$ 2,200,045.20	\$ 252,253.26	\$ 526,278.06	\$ 12,822.73
Winston								
Yalobusha				\$ 2,885,062.00	\$ 11,780,887.20	\$ 2,326,335.62	\$ 5,119,250.22	\$ 5,924,101.26
Total	\$	1,672,386.48	\$ 1,705,000.00					

Wages by Enterprise (Cont.)

	Chotaw Resid.	MBCI	Silver Star	Total for County
Adams			\$ 12,103.00	\$ 12,103.00
Altala		\$ 232,429.86	\$ 1,428,178.00	\$ 1,951,317.45
Calhoun			\$ 12,103.00	\$ 12,103.00
Chickasaw			\$ 48,413.00	\$ 48,413.00
Chotaw		\$ 17,879.22	\$ 60,516.00	\$ 78,395.22
Clarke		\$ 35,758.44	\$ 48,413.00	\$ 84,171.44
DeSoto			\$ 12,103.00	\$ 12,103.00
Forrest		\$ 17,879.22	\$ 12,103.00	\$ 29,982.22
George				\$ 28,655.46
Hancock				\$ 14,327.73
Harrison				\$ 479,759.10
Hinds		\$ 125,154.54	\$ 121,032.00	\$ 246,186.54
Holmes		\$ 17,879.22	\$ 24,206.00	\$ 42,085.22
Kemper	\$ 146,414.10	\$ 357,584.40	\$ 1,149,805.00	\$ 3,303,020.26
Jackson			\$ 84,722.00	\$ 2,678,434.83
Jasper		\$ 178,792.20	\$ 48,413.00	\$ 227,205.20
Jones		\$ 71,516.88	\$ 48,413.00	\$ 119,929.88
Lafayette		\$ 17,879.22		\$ 17,879.22
Lauderdale		\$ 446,980.50	\$ 1,839,688.00	\$ 2,871,390.98
Lawrence				\$ 185,820.72
Leake	\$ 424,600.89	\$ 4,291,012.80	\$ 5,373,824.00	\$ 14,835,571.53
Lowndes		\$ 17,879.22	\$ 72,919.00	\$ 90,498.22
Madison		\$ 196,671.42	\$ 217,858.00	\$ 517,111.26
Monroe			\$ 12,103.00	\$ 12,103.00
Montgomery			\$ 12,103.00	\$ 12,103.00
Neshoba	\$ 2,913,640.59	\$ 17,897,099.22	\$ 16,109,369.00	\$ 50,467,062.82
Newton	\$ 234,262.56	\$ 3,879,790.74	\$ 3,013,699.00	\$ 10,890,035.32
Noxubee	\$ 14,641.41	\$ 17,879.22	\$ 314,883.00	\$ 531,723.55
Oktibbeha		\$ 89,396.10	\$ 181,548.00	\$ 270,944.10
Pearl River		\$ 17,879.22		\$ 17,879.22
Pontotoc			\$ 12,103.00	\$ 12,103.00
Prentiss		\$ 17,879.22		\$ 17,879.22
Rankin		\$ 143,033.76	\$ 266,271.00	\$ 437,692.44
Scott		\$ 125,154.54	\$ 593,057.00	\$ 762,547.04

Municipalities by Jurisdiction (Cont.)

	Choctaw Resid.	MBCI	Silver Star	Total for County
Simpson	\$ 17,879.22	\$ 24,206.00	\$ 42,085.22	
Stone			\$ 51,883.05	
Tippah	\$ 17,879.22		\$ 17,879.22	
Warren	\$ 35,758.44	\$ 24,206.00	\$ 59,964.44	
Washington		\$ 12,103.00	\$ 12,103.00	
Webster		\$ 24,206.00	\$ 24,206.00	
Winston	\$ 146,414.10	\$ 750,927.24	\$ 5,385,930.00	
Yalobusha		\$ 12,103.00	\$ 9,402,290.59	
Total	\$ 3,879,973.65	\$ 29,035,853.28	\$ 36,612,202.00	\$ 100,941,051.71

Purchases by Enterprise

	1st Amer. Plastic	1st Amer. Print.	Amer. Greet.	Chata Ent.	Choctaw Dev.	Choctaw Elect.
Alcorn						
Altala				\$ 3,439.08	\$ 32,372.00	
Bolivar						
Calhoun						
Carroll						
Choctaw				\$ 1,052.61		
Claborne						
Clarke				\$ 855.91		
Clay						
Coaloma						
Copiah						
DeSoto				\$ 3,975.00		\$639.00
Forrest				\$ 7,406.18		
Franklin				\$ 23.18		
George						
Grenada						
Hancock						
Harrison				\$ 2,227.12		\$8,983.80
Hinds	\$ 47,776.49	\$ 700,000.00		\$ 924,358.65	\$ 1,557,950.00	\$74,040.20
Holmes						
Issaquena						
Itawamba						
Kemper				\$ 101,346.16	\$ 4,485.00	
Jackson	\$ 131,760.06					
Jasper						
Jones				\$ 23,758.00		
Lafayette						
Lamar				\$ 3,674.28		\$317.01
Lauderdale				\$ 504,726.84	\$ 533,796.00	\$402,390.83
Lawrence						
Leake				\$ 107,474.76	\$ 10,714.00	\$546.00
Lee						\$501.60
Leflore						
Lincoln						

Purchases by Enterprise (Cont.)						
	1st Amer. Plastic	1st Amer. Print.	Amer. Greet.	Chata Ent.	Choclaw Dev.	Choclaw Elect.
Lowndes				\$ 3,778.83		\$7,963.43
Madison				\$ 269,962.30	\$ 87,529.00	\$34,942.91
Marion						
Monroe						
Neshoba	\$ 2,574.00			\$6,323,243.67	\$2,959,988.00	\$82,111.89
Newton				\$ 95,022.24	\$ 26,735.00	\$643.35
Norubee				\$ 16,214.93	\$ 2,860.00	
Oktibbeha				\$ 3,492.67	\$ 3,544.00	\$375.00
Panola						
Pearl River						
Pike				\$ 499.00		
Prentiss						
Quitman				\$ 50.00		
Rankin	\$ 1,683.00			\$ 478,864.39	\$ 293,916.00	\$41,744.50
Scott					\$1,996,230.00	
Simpson						
Smith				\$ 980.00		
Stone						
Sunflower						
Tallahatchie				\$ 1,121.25		
Tate						
Tippah						
Tishomingo						
Tunica						
Warren						
Washington					\$ 210,691.00	
Wayne						
Webster				\$ 48,006.61	\$ 39,858.00	\$3,635.80
Winston						
Yalobusha						
Yazoo						
Total	\$ 183,793.55	\$ 700,000.00	\$ -	\$ 8,981,885.66	\$ 7,784,426.00	\$ 658,835.32
	0.19%	0.73%	0.00%	9.43%	8.17%	0.69%

Purchases by Enterprise (Cont.)

	Choctaw Mfg.	Choctaw Resid.	MBCI	Silver Star	Total for County	
Alcorn			\$5,174.50	\$120,173.01	\$ 125,347.51	0.13%
Attala	\$9,824.47	\$22,751.53	\$536,129.90	\$53,551.29	\$ 658,068.27	0.69%
Bolivar			\$24,726.82		\$ 24,726.82	0.03%
Calhoun			\$465.00		\$ 465.00	0.00%
Carroll			\$632.20		\$ 632.20	0.00%
Choctaw			\$2,251.78	\$620.00	\$ 3,924.39	0.00%
Claborn		\$7,064.60			\$ 7,064.60	0.01%
Clarke			\$8,834.88	\$37.99	\$ 9,728.78	0.01%
Clay			\$72,594.27	\$4,911.76	\$ 77,506.03	0.08%
Coaloma			\$75.00	\$22,350.08	\$ 22,350.08	0.02%
Copiah			\$55,735.50	\$526.94	\$ 60,237.44	0.06%
DeSoto		\$6,069.70	\$217,055.71	\$208,402.61	\$ 439,573.20	0.46%
Forrest					\$ 23.18	0.00%
Franklin			\$174.00		\$ 174.00	0.00%
George			\$70.00		\$ 70.00	0.00%
Grenada			\$2,030.00	\$844.85	\$ 2,874.85	0.00%
Hancock			\$37,390.73	\$578,694.80	\$ 1,378,443.78	1.45%
Harrison		\$3,370.84	\$5,126,350.21	\$3,568,708.17	\$ 11,584,032.01	12.16%
Hinds	\$46,672.79	\$285,951.99	\$12,559.69		\$ 12,559.69	0.01%
Holmes			\$68,704.00	\$18,772.21	\$ 18,772.21	0.02%
Issaquena			\$202,253.84	\$435.50	\$ 68,704.00	0.07%
Itawamba			\$24,581.38	\$914,285.82	\$ 308,520.50	0.32%
Kemper			\$30,628.50		\$ 1,070,627.26	1.12%
Jackson			\$1,414.81	\$516.30	\$ 30,628.50	0.03%
Jasper			\$77,286.70	\$1,105.00	\$ 25,689.11	0.03%
Jones			\$33,923.67	\$103,390.65	\$ 78,391.70	0.08%
Lafayette		\$5,555.00	\$78,963.44	\$3,069,993.05	\$ 146,860.61	0.15%
Lamar	\$18,114.09	\$20,070.41	\$1,942,133.27		\$ 4,708,054.66	4.94%
Lauderdale			\$3,997,568.98	\$69,236.83	\$ 1,942,133.27	2.04%
Lawrence	\$43,784.85	\$19,199.29	\$227,045.83	\$901.00	\$ 4,247,524.71	4.46%
Leake	\$12,576.35		\$22,184.67	\$6,090.45	\$ 241,026.78	0.25%
Lee			\$5,215.33	\$76.00	\$ 28,275.12	0.03%
Leflore					\$ 5,291.33	0.01%
Lincoln						

Purchases by Enterprise (Cont.)				Silver Star		Total for County	
	Choctaw Mfg.	Choctaw Resid.	MBCI				
Lowndes	\$39.52	\$5,426.77	\$594,522.67	\$20,801.79	\$	632,533.01	0.66%
Madison	\$85,355.18	\$12,368.00	\$514,335.13	\$207,260.27	\$	1,211,752.79	1.27%
Marion			\$558.70		\$	558.70	0.00%
Monroe			\$85.00	\$1,969.19	\$	2,054.19	0.00%
Neshoba		\$187,487.99	\$38,807,202.86	\$3,282,193.46	\$	51,644,801.87	54.22%
Newton		\$414.00	\$2,446,223.46	\$366,889.51	\$	2,935,927.56	3.08%
Noxubee			\$12,212.31	\$16,708.00	\$	47,995.24	0.05%
Oktibbeha		\$4,306.13	\$234,117.18	\$17,853.50	\$	263,688.48	0.28%
Panola			\$85.00		\$	85.00	0.00%
Pearl River			\$2,227.07		\$	2,227.07	0.00%
Pike			\$1,058.50		\$	1,557.50	0.00%
Prenliss			\$178.00		\$	178.00	0.00%
Quitman					\$	50.00	0.00%
Rankin	\$142,828.85	\$135,018.47	\$2,348,121.65	\$4,722,930.54	\$	8,165,107.40	8.57%
Scott				\$97,760.91	\$	2,093,990.91	2.20%
Simpson		\$1,230.52	\$124,016.50		\$	125,247.02	0.13%
Smith			\$138,585.84		\$	139,565.84	0.15%
Stone			\$1,511.63		\$	1,511.63	0.00%
Sunflower				\$853.92	\$	853.92	0.00%
Tallahatchie					\$	1,121.25	0.00%
Tate			\$3,882.00	\$30.00	\$	3,912.00	0.00%
Tippah			\$330.00		\$	330.00	0.00%
Trishomingo			\$25,156.22	\$100.54	\$	25,256.76	0.03%
Tunica				\$1,319.24	\$	1,319.24	0.00%
Warren			\$612.80	\$21,284.40	\$	21,897.20	0.02%
Washington				\$50.00	\$	50.00	0.00%
Wayne			\$334.85		\$	211,025.85	0.22%
Webster			\$12.00		\$	12.00	0.00%
Winston		\$9,412.33	\$232,880.88	\$26,651.94	\$	360,535.56	0.38%
Yalobusha		\$427.80	\$200.00		\$	627.80	0.00%
Yazoo	\$15,012.00		\$150.00	\$12,661.04	\$	27,823.04	0.03%
Total	\$374,210.10 0.39%	\$726,125.37 0.76%	\$58,302,754.86 61.21%	\$17,539,942.56 18.41%	\$	\$95,251,973.42 100.00%	

Estimated Annual Commuting by Enterprise

	1st Amer. Plastic	1st Amer. Print.	Amer. Greet.	Chata Entl.	Choctaw Dev.	Choctaw Elect.	Choctaw Mfg.
Adams							
Altala				74,000		18,500	178,500
Calhoun							
Chickasaw							
Choctaw							
Clarke							
DeSoto							
Forrest							
George		59,000					
Hancock		21,000					
Harrison	32,000	187,000					
Hinds							
Holmes							
Kemper			14,000	1,372,000	98,000	28,000	
Jackson	290,000	345,000					
Jasper							
Jones							
Lafayette							
Lauderdale			18,500	629,000	37,000	37,000	
Lawrence	560,000						
Leake			390,000	299,000	117,000	273,000	1,220,000
Lowndes							180,000
Madison							
Monroe							
Montgomery							
Neshoba			675,000	1,410,000	235,000	955,000	2,498,000
Newton			204,000	3,689,000	153,000	187,000	
Noxubee				325,000			
Oktibbeha							
Pearl River							
Pontotoc							
Prenliss							
Rankin				86,000			27,500
Scott				55,000			

Estimated Annual Commuting by Enterprise (Cont.)							
	1st Amer. Plastic	1st Amer. Print.	Amer. Greet.	Chata Ent.	Choctaw Dev.	Choctaw Elect.	Choctaw Mfg.
Simpson							
Stone		47,000					
Tippah							
Warren							
Washington							
Webster							
Winston			117,000	2,015,000	117,000	338,000	20,500
Yalobusha			1,418,500	9,954,000	757,000	1,854,000	4,095,000
Total	882,000	669,000					

Estimated Annual Commuting by Enterprise (Cont.)						
	Choctaw Resid.	MBCI	Silver Star	Total for County	Gas Consumed	Fuel Tax
Simpson		48,000	69,000	117,000	5,318	\$ 957.27
Stone				47,000	2,136	\$ 384.55
Tippah		70,500		70,500	3,205	\$ 576.82
Warren		147,000	107,000	254,000	11,545	\$ 2,076.18
Washington			53,000	53,000	2,409	\$ 433.64
Webster			44,000	44,000	2,000	\$ 360.00
Winston	65,000	546,000	4,202,000	7,420,500	337,295	\$ 60,713.18
Yalobusha	984,000	15,987,500	26,079,909	62,887,909	1,955	\$ 351.82
Total					2,849,450	\$ 512,901.07

Spending Pattern	Leakage to				Pull Factor	Leakage From				Spent In County	Leakage to			
	State of TN	State of LA	State of AL	Lee Co.		State of TN	State of LA	State of AL	Lee Co.		State of TN	State of LA	State of AL	Lee Co.
Adams	\$	5,083.26	1.85	\$	5,083.26	\$	5,083.26	\$	5,083.26	\$	5,083.26	\$	5,083.26	\$
Attala	\$	819,553.33	1.01	\$	819,553.33	\$	819,553.33	\$	819,553.33	\$	819,553.33	\$	819,553.33	\$
Calhoun	\$	5,083.26	0.31	\$	1,575.81	\$	3,507.45	\$	3,507.45	\$	1,575.81	\$	3,507.45	\$
Chickasaw	\$	20,333.46	0.63	\$	12,810.08	\$	7,523.38	\$	7,523.38	\$	12,810.08	\$	7,523.38	\$
Choctaw	\$	32,925.99	0.17	\$	5,597.42	\$	27,328.57	\$	27,328.57	\$	5,597.42	\$	27,328.57	\$
Clarke	\$	35,352.00	0.02	\$	707.04	\$	34,644.96	\$	34,644.96	\$	707.04	\$	34,644.96	\$
DeSoto	\$	5,083.26	0.44	\$	2,236.63	\$	2,846.63	\$	2,846.63	\$	2,236.63	\$	2,846.63	\$
Forrest	\$	12,592.53	0.59	\$	7,429.59	\$	5,162.94	\$	5,162.94	\$	7,429.59	\$	5,162.94	\$
George	\$	12,035.29	0.95	\$	11,433.53	\$	601.76	\$	601.76	\$	11,433.53	\$	601.76	\$
Hancock	\$	6,017.85	0.85	\$	3,911.47	\$	2,106.38	\$	2,106.38	\$	3,911.47	\$	2,106.38	\$
Harrison	\$	201,498.82	1.12	\$	201,498.82	\$	201,498.82	\$	201,498.82	\$	201,498.82	\$	201,498.82	\$
Hinds	\$	103,398.35	1.04	\$	103,398.35	\$	103,398.35	\$	103,398.35	\$	103,398.35	\$	103,398.35	\$
Holmes	\$	17,675.79	0.3	\$	5,302.74	\$	12,373.05	\$	12,373.05	\$	5,302.74	\$	12,373.05	\$
Kemper	\$	1,387,268.51	0.06	\$	83,236.11	\$	1,304,032.40	\$	1,304,032.40	\$	83,236.11	\$	1,304,032.40	\$
Jackson	\$	1,124,942.63	0.79	\$	888,704.68	\$	236,237.95	\$	236,237.95	\$	888,704.68	\$	236,237.95	\$
Jasper	\$	95,426.18	0.23	\$	21,948.02	\$	73,478.16	\$	73,478.16	\$	21,948.02	\$	73,478.16	\$
Jones	\$	50,370.55	1	\$	50,370.55	\$	50,370.55	\$	50,370.55	\$	50,370.55	\$	50,370.55	\$
Lafayette	\$	7,509.27	1.1	\$	7,509.27	\$	7,509.27	\$	7,509.27	\$	7,509.27	\$	7,509.27	\$
Lauderdale	\$	1,205,984.21	1.19	\$	1,205,984.21	\$	1,205,984.21	\$	1,205,984.21	\$	1,205,984.21	\$	1,205,984.21	\$
Lawrence	\$	78,044.70	0.13	\$	10,145.81	\$	67,898.89	\$	67,898.89	\$	10,145.81	\$	67,898.89	\$
Leake	\$	6,230,940.04	0.79	\$	4,922,442.63	\$	1,308,497.41	\$	1,308,497.41	\$	4,922,442.63	\$	1,308,497.41	\$
Lowndes	\$	38,009.25	1.31	\$	38,009.25	\$	38,009.25	\$	38,009.25	\$	38,009.25	\$	38,009.25	\$
Madison	\$	217,186.73	1.86	\$	217,186.73	\$	217,186.73	\$	217,186.73	\$	217,186.73	\$	217,186.73	\$
Monroe	\$	5,083.26	1	\$	5,083.26	\$	5,083.26	\$	5,083.26	\$	5,083.26	\$	5,083.26	\$
Montgomery	\$	5,083.26	0.88	\$	4,473.27	\$	609.99	\$	609.99	\$	4,473.27	\$	609.99	\$
Neshoba	\$	21,196,166.38	1.42	\$	21,196,166.38	\$	21,196,166.38	\$	21,196,166.38	\$	21,196,166.38	\$	21,196,166.38	\$
Newton	\$	4,573,814.83	0.49	\$	2,241,169.27	\$	2,332,645.57	\$	2,332,645.57	\$	2,241,169.27	\$	2,332,645.57	\$
Noxubee	\$	223,323.89	0.3	\$	66,997.17	\$	156,326.72	\$	156,326.72	\$	66,997.17	\$	156,326.72	\$
Oktibbeha	\$	113,798.52	1.03	\$	113,798.52	\$	113,798.52	\$	113,798.52	\$	113,798.52	\$	113,798.52	\$
Pearl River	\$	7,509.27	0.72	\$	5,408.68	\$	2,102.60	\$	2,102.60	\$	5,408.68	\$	2,102.60	\$
Pontotoc	\$	5,083.26	0.66	\$	3,354.95	\$	1,728.31	\$	1,728.31	\$	3,354.95	\$	1,728.31	\$
Prentiss	\$	7,509.27	0.67	\$	5,031.21	\$	2,478.06	\$	2,478.06	\$	5,031.21	\$	2,478.06	\$
Rankin	\$	183,830.82	0.48	\$	88,238.80	\$	95,592.03	\$	95,592.03	\$	88,238.80	\$	95,592.03	\$
Scott	\$	320,289.76	0.68	\$	217,783.43	\$	102,486.32	\$	102,486.32	\$	217,783.43	\$	102,486.32	\$

Spending Pattern (Cont.)									
	Spendable Income	Pull Factor	Spent in County	Leakage From	State of TN	State of LA	State of AL	Lee Co.	
Simpson	\$ 17,675.79	0.69	\$ 12,196.30	\$ 5,479.50					
Stone	\$ 21,790.88	0.3	\$ 6,537.26	\$ 15,253.62					
Tippah	\$ 7,509.27	0.67	\$ 5,031.21	\$ 2,478.06	\$ 421.27			\$ 2,056.79	
Warren	\$ 25,185.06	1.2	\$ 25,185.06	\$ -					
Washington	\$ 5,083.26	1.4	\$ 5,083.26	\$ -					
Webster	\$ 10,166.52	0.25	\$ 2,541.63	\$ 7,624.89				\$ 2,821.21	
Winston	\$ 3,948,962.05	0.88	\$ 3,475,086.60	\$ 473,875.45					
Yalobusha	\$ 5,083.26	0.24	\$ 1,219.98	\$ 3,863.28	\$ 3,863.28				
Total	\$ 42,395,241.72				\$ 7,131.18	\$ 3,599.46	\$ 156,446.60	\$ 28,394.78	

Spending Pattern by County (cont.)

	Lowndes Co.	Hinds Co.	Madison Co.	Rankin Co.	Grenada Co.	Lauderdale Co.	Harrison Co.	Lamar Co.
Adams								
Attala					\$ 1,508.20			
Calhoun	\$ 1,655.14							
Chickasaw	\$ 15,577.29							
Choctaw								
Clarke		\$ 2,425.15	\$ 4,157.40	\$ 1,039.35		\$ 27,023.07		
DeSoto								
Forrest							\$ 72.21	\$ 5,162.94
George							\$ 483.16	
Hancock								
Harrison								
Hinds		\$ 4,663.00	\$ 8,273.06	\$ 2,105.87				
Holmes		\$ 3,835.65	\$ 6,681.45	\$ 1,855.96				
Kemper		\$104,322.59	\$ 182,564.54	\$ 52,161.30		\$ 978,024.30		
Jackson								
Jasper		\$ 19,839.10	\$ 33,799.95	\$ 9,552.16			\$80,320.90	
Jones								
Lafayette								
Lauderdale								
Lawrence		\$ 10,184.83	\$ 18,332.70	\$ 4,752.92		\$ 1,308,497.41		
Leake		\$366,379.27	\$ 641,163.73	\$170,104.66				
Lowndes								
Madison								
Monroe		\$ 189.10	\$ 329.40	\$ 91.50				
Montgomery								
Neshoba								
Newton		\$396,549.75	\$ 699,793.67	\$188,611.65		\$1,049,690.50		
Noxubee						\$ 48,461.28		
Okfuskee	\$107,865.44							
Pearl River							\$ 128.16	
Pontotoc								
Prentiss								
Rankin		\$ 34,413.13	\$ 61,178.90			\$ 14,348.09		
Scott		\$ 27,871.31	\$ 48,168.57	\$ 12,298.36				

Simpson	Lowndes Co.	Hinds Co.	Madison Co.	Rankin Co.	Grenada Co.	Lauderdale Co.	Harrison Co.	Lamar Co.
Stone		\$ 1,698.64	\$ 2,958.93	\$ 821.92			\$10,525.00	\$ 6,711.59
Tippah								
Warren								
Washington								
Webster	\$ 4,727.43							
Winston	\$255,892.74					\$ 213,243.95		
Yalobusha								
Lamar					\$ 1,752.99			
Lee								
Grenada								
Lincoln								
Total	\$385,718.04	\$972,171.52	\$ 1,707,402.29	\$441,395.65	\$ 3,261.19	\$ 3,639,288.60	\$91,527.42	\$11,874.53

Spending Pattern by County (cont.)					Spent + Leakage Received	Sales Tax Generated	To Communities In County	Sales Tax
Forrest Co.	Lincoln Co.	Jones Co.						
Adams				\$ 5,083.26	\$ 355.83	\$ 72.94		
Attala				\$ 819,553.33	\$ 57,368.73	\$ 11,760.59		
Calhoun				\$ 1,575.81	\$ 110.31	\$ 22.61		
Chickasaw				\$ 12,810.08	\$ 898.71	\$ 183.82		
Choctaw				\$ 5,597.42	\$ 391.82	\$ 80.32		
Clarke				\$ 707.04	\$ 49.49	\$ 10.15		
DeSoto				\$ 2,236.63	\$ 156.56	\$ 32.10		
Forrest				\$ 8,192.27	\$ 573.46	\$ 117.56		
George				\$ 11,433.53	\$ 800.35	\$ 164.07		
Hancock				\$ 3,911.47	\$ 273.80	\$ 56.13		
Harrison				\$ 293,026.25	\$ 20,511.84	\$ 4,204.93		
Hinds				\$ 1,075,569.87	\$ 75,289.89	\$ 15,434.43		
Holmes				\$ 5,302.74	\$ 371.19	\$ 76.09		
Kemper				\$ 83,236.11	\$ 5,826.53	\$ 1,194.44		
Jackson				\$ 888,704.68	\$ 62,209.33	\$ 12,752.91		
Jasper				\$ 21,948.02	\$ 1,536.36	\$ 314.95		
Jones			\$10,286.04	\$ 60,657.49	\$ 4,246.02	\$ 870.44		
Lafayette				\$ 7,509.27	\$ 525.85	\$ 107.76		
Lauderdale				\$ 4,845,272.82	\$ 339,169.10	\$ 69,529.66		
Lawrence				\$ 10,145.81	\$ 710.21	\$ 145.59		
Leake			\$34,628.43	\$ 4,922,442.63	\$ 344,570.08	\$ 70,837.05		
Lowndes				\$ 423,727.29	\$ 28,660.91	\$ 6,080.49		
Madison				\$ 1,924,589.02	\$ 134,721.23	\$ 27,817.85		
Monroe				\$ 5,083.26	\$ 355.83	\$ 72.94		
Montgomery				\$ 4,473.27	\$ 313.13	\$ 64.19		
Neshoba				\$ 21,196,166.38	\$ 1,483,731.65	\$ 304,164.99		
Newton				\$ 2,241,169.27	\$ 156,881.85	\$ 32,160.78		
Noxubee				\$ 66,997.17	\$ 4,689.80	\$ 961.41		
Oktibbeha				\$ 113,796.52	\$ 7,965.76	\$ 1,632.98		
Pearl River				\$ 5,406.68	\$ 378.47	\$ 77.59		
Pontotoc				\$ 3,354.95	\$ 234.85	\$ 48.14		
Prentiss				\$ 5,031.21	\$ 352.18	\$ 72.20		
Rankin				\$ 529,634.44	\$ 37,074.41	\$ 7,600.25		
Scott				\$ 217,783.43	\$ 15,244.84	\$ 3,125.19		

	Forrest Co.	Lincoln Co.	Jones Co.	Received	Sales Tax Generated	Sales Tax To Communities In County
Simpson				\$ 12,196.30	\$ 853.74	\$ 175.02
Stone				\$ 6,537.26	\$ 457.61	\$ 93.81
Tippah				\$ 5,031.21	\$ 352.18	\$ 72.20
Warren				\$ 25,185.06	\$ 1,762.95	\$ 361.41
Washington				\$ 5,083.26	\$ 355.83	\$ 72.94
Webster				\$ 2,541.63	\$ 177.91	\$ 36.47
Winston				\$ 3,475,086.60	\$ 243,256.06	\$ 49,867.49
Yalobusha				\$ 1,219.98	\$ 85.40	\$ 17.51
Lamar				\$ 11,874.53	\$ 831.22	\$ 170.40
Lee				\$ 56,788.55		
Grenada				\$ 3,261.19		
Lincoln				\$ 34,628.43		
Total	\$ 762.68	\$34,628.43	\$10,286.94	\$43,461,564.46	\$ 3,042,309.51	\$ 623,673.45

Rent and Taxes Paid

	Employed	MS Inc. Tax	Est. Car Tags	Est Prop. Tax	Est. Rent Paid
Adams	1	\$ 400.00	\$ 80.00	\$ 480.00	
Altala	117	\$ 46,800.00	\$ 9,360.00	\$ 56,160.00	\$ 168,480.00
Calhoun	1	\$ 400.00	\$ 80.00	\$ 480.00	
Chickasaw	3	\$ 1,200.00	\$ 240.00	\$ 1,440.00	
Choclaw	5	\$ 2,000.00	\$ 400.00	\$ 2,400.00	\$ 7,200.00
Clarke	5	\$ 2,000.00	\$ 400.00	\$ 2,400.00	\$ 7,200.00
DeSoto	1	\$ 400.00	\$ 80.00	\$ 480.00	
Forrest	2	\$ 800.00	\$ 160.00	\$ 960.00	
George	2	\$ 800.00	\$ 160.00	\$ 960.00	
Hancock	1	\$ 400.00	\$ 80.00	\$ 480.00	
Harrison	26	\$ 10,400.00	\$ 2,080.00	\$ 12,480.00	\$ 37,440.00
Hinds	14	\$ 5,600.00	\$ 1,120.00	\$ 6,720.00	\$ 20,160.00
Holmes	2	\$ 800.00	\$ 160.00	\$ 960.00	
Kemper	202	\$ 80,800.00	\$ 16,160.00	\$ 96,960.00	\$ 290,880.00
Jackson	132	\$ 52,800.00	\$ 10,560.00	\$ 63,360.00	\$ 190,080.00
Jasper	13	\$ 5,200.00	\$ 1,040.00	\$ 6,240.00	\$ 18,720.00
Jones	7	\$ 2,800.00	\$ 560.00	\$ 3,360.00	\$ 10,080.00
Lafayette	1	\$ 400.00	\$ 80.00	\$ 480.00	
Lauderdale	175	\$ 70,000.00	\$ 14,000.00	\$ 84,000.00	\$ 252,000.00
Lawrence	8	\$ 3,200.00	\$ 640.00	\$ 3,840.00	\$ 11,520.00
Leake	843	\$ 337,200.00	\$ 67,440.00	\$ 404,640.00	\$ 1,213,920.00
Lowndes	5	\$ 2,000.00	\$ 400.00	\$ 2,400.00	\$ 7,200.00
Madison	30	\$ 12,000.00	\$ 2,400.00	\$ 14,400.00	\$ 43,200.00
Monroe	1	\$ 400.00	\$ 80.00	\$ 480.00	
Montgomery	1	\$ 400.00	\$ 80.00	\$ 480.00	
Neshoba	2867	\$ 1,146,800.00	\$ 229,360.00	\$ 1,376,160.00	\$ 4,128,480.00
Newton	655	\$ 262,000.00	\$ 52,400.00	\$ 314,400.00	\$ 943,200.00
Noxubee	34	\$ 13,600.00	\$ 2,720.00	\$ 16,320.00	\$ 48,960.00
Oktibbeha	16	\$ 6,400.00	\$ 1,280.00	\$ 7,680.00	\$ 23,040.00
Pearl River	1	\$ 400.00	\$ 80.00	\$ 480.00	
Portolac	1	\$ 400.00	\$ 80.00	\$ 480.00	
Prentiss	1	\$ 400.00	\$ 80.00	\$ 480.00	
Rankin	26	\$ 10,400.00	\$ 2,080.00	\$ 12,480.00	\$ 37,440.00
Scott	46	\$ 18,400.00	\$ 3,680.00	\$ 22,080.00	\$ 66,240.00

Rent and Taxes Paid (Cont.)								
	Employed	MS Inc. Tax	Est. Car Tags	Est Prop. Tax	Est. Rent Paid			
Simpson	2	\$ 800.00	\$ 160.00	\$ 960.00				
Stone	2	\$ 800.00	\$ 160.00	\$ 960.00				
Tippah	1	\$ 400.00	\$ 80.00	\$ 480.00				
Warren	3	\$ 1,200.00	\$ 240.00	\$ 1,440.00				
Washington	1	\$ 400.00	\$ 80.00	\$ 480.00				
Webster	1	\$ 400.00	\$ 80.00	\$ 480.00				
Winston	571	\$ 228,400.00	\$ 45,680.00	\$ 274,080.00	\$ 822,240.00			
Yalobusha	11	\$ 400.00	\$ 80.00	\$ 480.00				
Total	5822	\$ 2,328,800.00	\$ 465,760.00	\$ 2,794,560.00	\$ 8,347,680.00			

ONEIDA INDIAN NATION



ONEIDA NATION TERRITORY, VIA ONEIDA, NEW YORK

October 6, 1993

Mr. Anthony Hope
National Indian Gaming Commission
1850 M Street, N.W.
Suite 250
Washington, DC 20036

Dear Mr. Hope:

I certify that accompanying this letter is an authentic copy of the Gaming Ordinance of the Oneida Indian Nation of New York (Ordinance No. 0-93-01), which was enacted on February 19, 1993. Service of process with respect to Nation gaming should be addressed to me in care of the Oneida Indian Nation of New York, P.O. Box 1, Route 5, Vernon, New York 13476.

Very truly yours,

A handwritten signature in dark ink, appearing to read "R. Halbritter", is written over a horizontal line.

Ray Halbritter
Nation Representative

Business Address
PO Box 1 • Vernon, NY 13476
(315) 829-3090 • Fax (315) 829-3141

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**REQUEST FOR APPROVAL
OF GAMING ORDINANCE**

OCTOBER 8, 1993

SUBMITTED BY:

**ZUCKERMAN, SPAEDER, GOLDSTEIN
TAYLOR & KOLKER
1201 CONNECTICUT AVENUE, N.W.
WASHINGTON, D.C. 20036
(202) 778-1800**

**ATTORNEYS FOR THE ONEIDA INDIAN
NATION OF NEW YORK**

THIS BINDER CONTAINS DUPLICATES OF ORIGINAL DOCUMENTS

VOLUME I

"Act" means the Indian Gaming Regulatory Act, Pub. L. 100-497, 102 Stat. 2467, codified at 25 U.S.C. §§ 2701-21 and 18 U.S.C. §§ 1166-68.

"Class II gaming" means Class II gaming as defined by the Act. 25 U.S.C. § 2703(7)(A).

"Class III gaming" means Class III gaming as defined by the Act. 25 U.S.C. § 2703(8).

"Commission" or "Gaming Commission" means the Oneida Indian Nation of New York Gaming Commission established by this Ordinance.

"Compact" means any compact that is entered into between the Nation and the State of New York to govern Class III gaming operated by or on behalf of the Nation and that is in effect.

"Consensus" is the basis for decision-making by the Oneida Indian Nation of New York.

"Gaming employee" means any natural person employed in the operation or management of Class III gaming authorized by this Ordinance, whether employed by the Nation or by any enterprise or management contractor providing on-site services to the Nation within a Class III gaming facility.

"Gaming facility" means any place, facility or location in which Class II or III gaming is conducted on Nation land.

"Gaming operation" means any business or activity operated by or for the Nation on Nation lands for the purpose of conducting any form of Class II or III gaming in any Class II or Class III gaming facility.

"Nation lands" means the reservation lands of the Nation or lands over which the Nation exercises governmental power and which are either (i) held by the Nation or an individual member of the Nation subject to restriction by the United States against alienation; or (ii) held in trust by the United States for the benefit of the Nation or an individual member of the Nation.

"Nation Representative" means the official governmental representative of the Oneida Indian Nation of New York.

"National Indian Gaming Commission" means the National Indian Gaming Commission established pursuant to the Act. 25 U.S.C. § 2704.

"Net revenues" means gross revenues of a Class II or Class III gaming activity less amounts paid out as, or paid for, prizes and total operating expenses, excluding management fees.

"Ordinance" means this Oneida Indian Nation of New York Gaming Ordinance.

Article IV - Authorized Games

The following forms of Class II and III gaming shall be lawful if operated by the Nation as a tribal enterprise or by any other person or entity authorized by the Nation:

1. Any Class II game; and
2. Any Class III game authorized by a compact.

Article V - Nation Ownership

The Nation shall have the sole proprietary ownership of and responsibility for the conduct of any gaming activity on Nation land. This shall not preclude the Nation from entering into a management or service agreement with persons or firms to provide management or professional services to the gaming activity, including the appointment or licensing of persons or firms to act as the licensees or agents of the Nation in the conduct of a specific gaming activity.

Article VI - Revenue from Gaming

The net revenue received by the Nation for any gaming activity shall be used solely for the following purposes:

1. To fund Nation government operations or programs;
2. To provide for the general welfare of the Nation and its members;
3. To promote Nation economic development; and
4. To help fund operations of local government agencies.

Article VII - Audits

1. The Nation shall require an annual audit by a certified public accounting firm of all gaming activities, with results of each such audit to be provided to the National Indian Gaming Commission subject to terms that shall protect the confidentiality of the results.

2. All contracts for supplies, services or concession for a contract amount in excess of \$25,000 annually (except contracts for professional, legal, or accounting services) relating to such gaming shall be subject to such independent audits.

Article VIII - Public Health and Safety

The construction and maintenance of all gaming facilities and the operation of all gaming activities shall be conducted in a manner which adequately protects the environment and the public health and safety.

Article IX - Background Investigations

The Nation shall ensure that background investigations are conducted on primary management officials and key employees of the gaming operation, and oversight of such officials and their management shall be conducted on an ongoing basis. Background investigations shall be conducted in accordance with the Act and, if applicable, a compact. Any person whose prior activities, criminal record, if any, or reputation, habits or associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair or illegal practices and methods and activities in the conduct of gaming shall not be eligible for employment. Nor shall any person be eligible for employment who supplies materially false or misleading information in connection with a background investigation.

Article X - Licensing

The Nation shall issue a separate license to each place, facility, or location on Nation land where it elects to allow Class II or Class III gaming.

Article XI - Establishment of the Gaming Commission

1. The Gaming Commission shall be composed of three persons, each of whom shall carry the title "Gaming Commissioner."

2. The Gaming Commissioners shall be appointed, and may be reappointed, by the Nation Representative. A certificate of the Nation Representative as to the appointment or reappointment of any Gaming Commissioner shall be conclusive evidence of the due and proper appointment of the member.

3. A Gaming Commissioner may be a member or non-member of the Nation. However, no Gaming Commissioner shall be a gaming employee of any Nation gaming operation.

4. The term of office shall be four years and staggered. When the Gaming Commission is first established, one Commissioner's term shall be designated to expire in two years, another to expire in three years, and the third to expire in four years. Thereafter, all appointments shall be for four years, except that in the case of a prior vacancy, an appointment shall be only for the length of

the unexpired term. If physically able, each Commissioner shall hold office until his/her successor has been appointed.

5. The Nation Representative shall name one of the Gaming Commissioners as the First Gaming Representative of the Gaming Commission. The Gaming Commission shall select from among its Commissioners a Second Gaming Representative, a Secretary and a Treasurer; any member may hold two of these positions, except that no Gaming Commissioner may hold the positions of both First Gaming Representative and Second Gaming Representative. In absence of the First Gaming Representative, the Second Gaming Representative shall preside.

6. A Gaming Commissioner may be removed by the Nation Representative at any time with or without cause.

7. No Gaming Commissioner or employee of the Commission shall participate as a player in any gaming activity conducted by the Nation.

8. The Gaming Commissioners may receive compensation for their services and shall be entitled to compensation for their expenses, including travel expenses, incurred in the discharge of their duties. Such compensation shall be determined by the Nation Representative.

9. A majority of the full Gaming Commission (i.e., notwithstanding the existence of any vacancies) shall constitute a quorum for the transaction of business, but no Gaming Commission action shall be taken unless there is agreement by consensus.

10. The Secretary shall keep complete and accurate records of all meetings and actions taken by the Gaming Commission.

11. The Treasurer shall keep full and accurate financial records, prepare the Gaming Commission's annual budget, make periodic reports to the Nation Representative, and assist in the preparation of the annual report to the Nation Representative as required by Section 17 of Article XII of this Ordinance.

12. Meetings of the Gaming Commission shall be held at regular intervals as provided in the by-laws. Emergency meetings may be held upon 24 hours actual notice and business transacted, provided that at least a quorum exists and that there is a consensus of those Gaming Commissioners present with respect to the proposed action.

13. Any action required or permitted to be taken at a meeting of the Gaming Commission may be taken without a meeting if all of the members sign written consents setting forth the action taken or to be taken, at any time before or after the intended effective date of such action. Such consents shall be filed with the minutes

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of the Commission and shall have the same effect as consent obtained at a meeting.

14. Gaming Commissioners may participate in a meeting of the Commission by means of conference telephone or similar communications equipment by means of which all persons participating in the meetings can hear each other, and participation in a meeting in such manner by any Gaming Commissioner who does not object at the beginning of such meeting to the holding thereof in such manner shall constitute presence in person of that Gaming Commissioner at such meeting.

Article XII - Powers and Duties of the Gaming Commission

The Gaming Commission shall be responsible for the regulation of any gaming authorized by this Ordinance, shall perform in place of the Nation the duties of the Nation set forth in Articles IX and X of the Ordinance, and shall have the following powers that it may exercise consistent with the purpose for which it is established:

1. To adopt written standards of operation and management to govern all authorized gaming which shall include

- (a) the rules of each game of chance operated by the Nation;
- (b) permissible methods of payment;
- (c) procedures to license gaming employees, to conduct or cause to be conducted background investigations on employees and management officials, and to train and instruct gaming employees;
- (d) internal organization and management of the gaming operations;
- (e) security and surveillance methods;
- (f) accounting and cash control procedures; and
- (g) other record keeping requirements.

Such standards shall protect the public interest in the integrity of the gaming operations, and shall reduce the dangers of unsuitable, unfair or illegal practices and methods in the conduct of gaming.

2. To investigate any aspect of a gaming operation; and, in doing so, to require and review any records of or concerning any gaming operation and to compel any person employed by any such operation, or doing business with such operations to appear before

it and to provide such information, records or other materials as may be in their possession to assist in any investigation.

3. To license any gaming facility on Nation land where a tribe elects to allow Class II or Class III gaming and to enter and inspect at any time any such gaming facility in which games are operated pursuant to this Ordinance. Such inspections may be conducted by non-uniformed inspectors employed by and under the direction of the Gaming Commission.

4. To require an annual audit by a certified public accounting firm of all gaming activities and such other audits as it deems necessary.

5. To license any gaming employee.

6. To acknowledge the registration of gaming - service enterprises by a state for purposes of contracting with the Nation and to assist the State of New York in the registration of gaming service enterprises that seek to do business with a Nation gaming operation.

7. To ensure that background investigations are conducted on primary management officials and key employees of the gaming operations in accordance with the Act and a compact, and to oversee such officials and their management on an ongoing basis.

8. To prohibit undesirable conduct from occurring in, and undesirable persons from admission to, any gaming facility.

9. To coordinate and cooperate with any legitimate law enforcement effort to protect the Nation and its gaming operations from harm.

10. To provide information to the federal and state governments in accordance with the Act and a compact.

11. To ensure that the construction and maintenance of all gaming facilities and the operation of all gaming activities is conducted in a manner that adequately protects the environment and the public health and safety.

12. To carry out each responsibility and duty of a Nation gaming agency set forth in the Act or a compact not otherwise set forth in this Ordinance.

13. To receive any complaint from an employee of any gaming operation or any member of the public who is or claims to be adversely affected by an act or omission of a gaming operation that is asserted to violate this Ordinance, the Act, a compact, or the standards of management and operation adopted pursuant to this Ordinance, and may upon consideration of such complaint recommend

to the Nation Representative such remedial action as it deems appropriate to bring the gaming operation into compliance with such provisions. The Commission may for this purpose, in its sole discretion, conduct a hearing and receive evidence with regard to such complaint if it deems an evidentiary proceeding useful in the resolution of such complaint. In addition, the Commission may receive any suggestions from any employee of any gaming operation or any member of the public regarding ways in which a gaming operation may be improved.

14. The Commission may adopt an annual operating budget which shall be subject to the approval of the Nation Representative and may in accordance with that budget employ such staff from time to time as it deems necessary to fulfill its responsibilities under this Ordinance. The Nation Representative shall appoint an individual to serve as a full-time Executive Director of the Commission to administer its responsibilities on a day to day basis and to oversee inspectors appointed by the Commission as well as such other staff as the Commission may from time to time employ. The Commission may delegate to the Executive Director those powers not expressly limited to the Commission. The Commission may also enlist with the approval of the Nation Representative the legal counsel and other professional services, including investigative services, available to the Nation, to assist the Commission with respect to any of the issues over which the Commission exercises jurisdiction.

15. To undertake and carry out studies and analyses of Nation gaming operations.

16. To adopt such by-laws as the Commission deems necessary and appropriate.

17. The Commission shall submit an annual report, in written form, signed by the First Gaming Representative of the Gaming Commission, to the Nation Representative showing (a) a summary of the year's activities, (b) the financial condition of the gaming operations, (c) any significant problems and accomplishments, (d) plans for the future, and (e) such other information as the Commission or the Nation Representative shall deem pertinent.

18. To take such further actions as are commonly engaged in by public bodies of this character as the Commission may deem necessary and desirable to effectuate its purposes.

Article XIII - Prior Ordinance Repealed

Upon execution of this Ordinance, the gaming ordinance executed on December 4, 1992 shall be repealed. Upon approval of this Ordinance by the National Indian Gaming Commission, the gaming ordinance executed on June 16, 1989 shall be repealed.

Article XIV- Interpretation

The provisions of this Ordinance, being necessary for the benefit of the Nation and its members, shall be liberally construed to effect the purposes and objectives thereof.

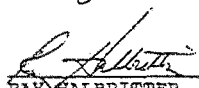
Article XV - Effective Date

This Ordinance is effective upon enactment.

Article XVI - Enforcement

This Ordinance shall be enforced by the Nation.

ENACTED THIS 19 DAY OF February 19923 R.#.


RAY HALBRITTER
Nation Representative

NATION-STATE COMPACT

Between the
ONEIDA INDIAN NATION OF NEW YORK
and the
STATE OF NEW YORK

THIS COMPACT is made and entered into on March ____, 1993, by
and between the ONEIDA INDIAN NATION OF NEW YORK and the STATE OF
NEW YORK.

RECITALS

WITNESSETH:

WHEREAS, the Oneida Indian Nation of New York (hereinafter
"the Nation") is an Indian Nation recognized by the United States
of America, with all sovereign powers and rights thereto
pertaining; and

WHEREAS, the State of New York (hereinafter "the State") is a
state of the United States of America, with all sovereign rights
and powers thereto pertaining; and

WHEREAS, the Nation and the State each have the authority to
govern within their respective jurisdictions; and

WHEREAS, the Congress of the United States has enacted into
law the Indian Gaming Regulatory Act (hereafter "the Act" or
"IGRA") which provides in part that a Compact be negotiated between
an Indian Nation and a State to govern the conduct of activities
which constitute Class III gaming as defined by the Act; and

WHEREAS, the Nation and the State have mutually agreed, pursuant to the Indian Gaming Regulatory Act, to the following provisions governing the conduct of Class III gaming activities on the lands of the Nation in order to: (a) promote tribal economic development, self-sufficiency, and strong tribal government; (b) protect the health, welfare and safety of the citizens of the Nation and the State; (c) develop and implement a means of regulation for the conduct of Class III gaming on Nation lands to insure the fair and honest operation of such gaming activities; and (d) maintain the integrity of all activities conducted in regard to Class III gaming; and

WHEREAS, nothing in this Compact is intended to affect the operation by the Nation of any Class I or Class II gaming as defined in the Act; and

NOW, THEREFORE, the ONEIDA INDIAN NATION OF NEW YORK and THE STATE OF NEW YORK, in consideration of the mutual undertakings and agreements hereinafter set forth, do enter into a Compact as provided for herein.

SECTION 1. DEFINITIONS.

For purposes of this Compact:

(a) "Act" or "IGRA" means the Indian Gaming Regulatory Act, Pub.L. 100-497, 102 Stat. 2467, codified at 25 U.S.C. §§ 2701-21 and 18 U.S.C. §§ 1166-68 (1988 & Supp. II).

(b) "Board" means the New York State Racing and Wagering Board, its authorized officials, agents, and representatives acting

in their official capacities or other such agency of the State as the State may from time to time designate by written notice to the Nation as the State agency responsible for the regulation of Class III gaming jointly with the Oneida Indian Nation of New York Gaming Commission.

(c) "Class III Gaming" means those forms of gaming that are not Class I or Class II gaming, as defined in subsections (6) and (7) of Section 4 of the Act, 25 U.S.C. § 2703.

(d) "Compact" means this agreement between the Oneida Indian Nation of New York and the State of New York.

(e) "Commission" or "Nation gaming agency" means the Oneida Indian Nation of New York Gaming Commission, its authorized officers, agents and representatives acting in their official capacities or such other agency of the Nation as the Nation may from time to time designate by written notice to the State as the Nation agency responsible for the regulation of Class III gaming jointly with the Board.

(f) "Division" shall mean the New York State Division of Criminal Justice Services, its authorized officials, agents, and representatives acting in their official capacities.

(g) "Enterprise" means any individual, trust, corporation, partnership, or other legal entity of any kind other than a business or entity wholly owned and operated by the Oneida Indian Nation of New York; provided, however, that with respect to any corporation, the term "enterprise" shall include each other corporation or other legal entity which directly or indirectly

controls a majority of the voting interests in such corporation; and further provided, that with respect to any partnership, trust, or other form of unincorporated business organization, the term "enterprise" shall include each corporation or other legal entity which controls a majority of the voting interests in such organization.

(h) "Gaming employee" means any natural person employed in the operation or management of Class III gaming authorized by the provisions of this Compact, whether employed by the Nation or by any enterprise or management contractor providing on-site services to the Nation within a Class III gaming facility, including, but not limited to, Class III gaming facility managers and assistant managers; accounting personnel assigned to Class III casino-related transactions; Class III gaming facility security personnel; Class III gaming facility surveillance personnel; credit executives; Class III gaming facility cashier supervisors; Class III gaming facility cashiers; dealers or croupiers; box men; floormen; pit bosses; shift bosses; cage personnel; collection personnel; computer operators and technicians; food and beverage personnel and any other natural person whose employment duties require or authorize access to restricted areas of the gaming facilities not otherwise opened to the public.

(i) "Gaming equipment" means any machine or device which is specially designed or manufactured for use in the operation of any Class III game or activity.

(j) "Gaming facility" means any building in which Class III gaming, as authorized by this Compact, is conducted on Nation lands and shall include all public and non-public areas of any such building.

(k) "Gaming operation" means any enterprise, business or activity operated or authorized to operate by the Nation on its lands for the purpose of conducting any form of Class III gaming.

(l) "Gaming services" means those services provided to the Nation gaming operation in connection with the operation of Class III gaming, including maintenance or security services for the Class III gaming facility, gaming schools or training activities, promotional services, printing or manufacture of betting tickets, and manufacture, distribution, maintenance, testing or repair of gaming equipment.

(m) "Gaming supplies" mean those goods or supplies which are specially designed for use in the operation of any Class III game or activity.

(n) "Nation" means the Oneida Indian Nation of New York, its authorized officials, agents and representatives acting in their official capacities.

(o) "Nation lands" means the reservation lands of the Nation or lands within the State over which the Nation exercises governmental power and that are either (i) held by the Nation or an individual member of the Nation subject to restriction by the United States against alienation; or (ii) held in trust by the

United States for the benefit of the Nation or an individual member of the Nation.

(p) "Nation law enforcement agency" means the police force or agency established and maintained by the Nation.

(q) "Principal" means with respect to any enterprise: (i) each of its officers and directors; (ii) each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer, or general manager; (iii) each of its owners or partners if an unincorporated business; (iv) each of its shareholders who owns more than ten percent (10%) of the shares of the corporation if a corporation; and (v) each person other than a banking institution who has provided financing for the enterprise constituting more than ten percent of the total financing of the enterprise.

(r) "State" means the State of New York, its authorized officials, agents, representatives or agencies acting in their official capacities.

(s) "State law enforcement agency" means the New York State Police or such other law enforcement agency of the State as the State may from time to time designate by written notice to the Commission as the law enforcement agency of the State which will have responsibility for law enforcement with respect to Class III gaming as authorized by the provisions of this Compact.

SECTION 2. AUTHORIZED CLASS III GAMING.

(a) Authorized Games and Activities. The Nation may conduct within the Nation lands those games and activities enumerated in Appendix A, which is made a part of this Compact, in accordance with the specifications described for those games and activities in that Appendix.

(b) Authorized Gaming Facilities. The Nation shall establish one or more gaming facilities on the Nation lands for the operation of any game or activity authorized pursuant to subsection (a) of this Section.

SECTION 3. THE ONEIDA INDIAN NATION GAMING COMMISSION.

(a) Establishment. The Oneida Nation will establish an Oneida Indian Nation of New York Gaming Commission or another such agency of the Nation as the Nation agency responsible for the regulation of Class III gaming consistent with the provisions of this Compact.

(b) Authority. Such agency shall have full jurisdiction over and shall have responsibility for Nation Class III gaming operations. This agency shall have and perform duties and powers as prescribed by the Nation consistent with the Act, this Compact, and any applicable laws of the Nation.

(c) Hours and Days for Gaming. The Commission will establish the hours and days of operation of gaming facilities operated under this Compact. In the event there are changes in the dates and hours of operation, the Commission will notify the State no less than ninety (90) days in advance of those changes.

(d) Management Contract. In the event that the Nation enters into a contract for the management of any Class III gaming facility, that contract will expressly require the management contractor to comply with the terms of this Compact and its Appendices.

(e) Members and Employees. The Nation shall have sole discretion to select the members and employees of the Commission. Employees of the Commission shall meet standards for character and integrity no less stringent than the standards imposed by the Racing and Wagering Board for its own employees. All employees of the Commission shall, as a condition of employment, be required to undergo fingerprint and background checks by the State Law Enforcement Agency and be certified by the Racing and Wagering Board, which shall apply the criteria for gaming employees set forth in Section 6(e). The Board shall grant or deny temporary certifications for Commission employees under the same timetable as that applied for gaming employees in Section 6. Members of the Commission shall, upon assuming their offices, also receive fingerprint and background investigations, the results of which, along with an advisory opinion, shall be provided by the Board to the designated representative of the Nation government.

(f) Identification Badges. Employees of the Commission shall when at a gaming facility wear on their outer garments color coded identification badges issued by the Commission.

SECTION 4. NEW YORK STATE RACING AND WAGERING BOARD.

(a) Board Review Authority. The State shall exercise its regulatory and oversight role under this Compact through its Racing and Wagering Board. Personnel employed by the Board shall have unfettered access to all areas of the gaming facilities including the surveillance room(s) during all hours of operation without prior notice. However, personnel employed by the Commission shall accompany Board personnel into secured areas where money is counted or kept. Representatives of the Board shall be permitted to enter all other non-public areas of the gaming facility by giving notice to a designated representative of the Commission who shall, immediately upon receiving such notice, unlock or cause to be unlocked the non-public area and immediately ensure that the representative of the Board is permitted to enter. In performing their regulatory and oversight role under this Compact, Board personnel shall take all reasonable measures to avoid interfering with the conduct of the Nation gaming operations. Each Nation gaming operation shall provide reasonable office spaces and reserved parking spaces adjacent to the gaming facility for the Board and the State law enforcement agency.

(b) Access to Records. Copies of daily inspection reports made by Commission employees and copies of any patron complaints respecting the gaming operations shall be submitted to the Board on a daily basis. In the course of any investigation by the Board of matters within its jurisdiction, the Board may request, and the Nation or its operator shall provide to the Board, business and

accounting records of its gaming operations necessary to the conduct of that investigation. Records provided to the State by the Nation or its operator pursuant to this obligation shall be deemed confidential and proprietary financial information belonging to the Nation and shall not be subject to public disclosure by the State without the express written consent of the Nation. Such records shall remain the property of the Nation and shall be returned to the Nation at the conclusion of the investigation, unless the records constitute evidence in a criminal proceeding.

(c) Identification Badges. Identification badges to be worn by Board employees while at a gaming facility shall be issued by the Commission and be prominently appended to the approved location on the employee's outer garment. Such identification badges will not contain any insignia or wording identifying the State of New York but will present a distinctive color code that will identify its wearer as an employee of the Board. Upon issuance of each badge, the name of its recipient, employment position and badge number shall immediately be forwarded to the Board and the Nation gaming operation. No uniforms shall be worn by representatives of the Board.

(d) Number of Board Employees at a Gaming Facility. The Board shall not cause to be present at a gaming facility operated pursuant to this Compact more employees than are reasonably necessary to carry out its functions. The Nation shall not contest the Board's right under this provision to the presence in the gaming facility of no less than two inspectors per shift for

twenty-four (24) hours each day to execute its responsibilities under this Section. Any additional personnel shall be mutually agreed to by the parties at the annual assessment of costs meeting.

(e) Quarterly Meetings. In an attempt to develop and foster a relationship in the enforcement of the provisions of this Compact, representatives of the Board, the State law enforcement agency and the Commission shall meet, not less than on a quarterly basis, unless otherwise agreed, to review past practices and examine methods to improve the regulatory and enforcement program created by this Compact.

SECTION 5. LAW ENFORCEMENT MATTERS.

(a) Jurisdiction of the State. Nothing in this compact shall alter the jurisdiction of the State of New York over Indian Land as provided by applicable law.

(b) Powers of the State Law Enforcement Agency. Members of the State law enforcement agency in the course of their official duties shall have unfettered access to all areas of the gaming facility as well as to auxiliary facilities, subject only to State and Federal constitutional limitations. Such members shall not be denied access to any area in or about the gaming facility in the course of those duties.

(c) Identification Badges. The Commission shall issue color-coded identification badges to the members of the State Police casino detail. Such badges shall remain the property of the

Commission and must be returned to it at the conclusion of the member's service in the detail.

(d) Powers of the Nation Law Enforcement Agency. If the Nation establishes a law enforcement agency and the parties agree that its members are adequately trained and certified, its members may exercise concurrent authority with that of the State law enforcement agency to maintain public order and safety and to enforce applicable criminal laws of the State. The Nation law enforcement agency shall cooperate with representatives of the State law enforcement agency for the promotion of public order and safety and the prosecution of any offenders.

(e) Role of State Police Upon Establishment of Nation Law Enforcement Agency. Upon mutual agreement by the Nation and the State that the members of the Nation law enforcement agency are adequately trained and certified, the parties shall meet at the next annual assessment or costs meeting between the Nation and the State to reach mutual agreement on the respective roles of the Nation and the State law enforcement agencies in maintaining public order and safety and in enforcing applicable criminal laws. It is understood that the State does not by this agreement to negotiate as to the role of the Nation law enforcement agency agree to cede or surrender its authority under 25 U.S.C. § 232 and 233; and it is further understood that the State Police will remain the sole law enforcement agency charged with the duty of conducting background investigations provided for in this Compact and shall perform a law enforcement function at the gaming facility.

(f) Nation Security Personnel. The Nation shall provide security personnel to protect each gaming facility, its employees, patrons and their property. Such security personnel shall serve as liaisons to the law enforcement personnel. Nation security personnel shall wear badges pursuant to the provision of Section 6(m) or other apparel publicly identifying them as Nation security personnel.

(g) Coordination of Law Enforcement. Law enforcement officers and Nation security personnel shall comply with all reasonable requests by any representative(s) of the other to promote public order and safety as well as the enforcement of applicable laws.

SECTION 6. LICENSING OF GAMING EMPLOYEES.

(a) Requirement for Gaming Employee Licensing. No person may commence or continue employment as a gaming employee unless he or she is the holder of a valid gaming employee license issued by the Commission in accordance with the provisions of this Section.

(b) Procedure for License Applications. Each applicant for a gaming employee license shall submit a completed license application in quadruplicate to the Nation gaming operation on a form prescribed by the Commission and the Board. The gaming employee license application shall contain such information, documentation and assurances as may be required concerning the applicant's personal and family history, personal and business references, criminal conviction record, business activities,

financial affairs, gaming industry experiences, gaming school education and general educational background. Each completed application shall be accompanied by two (2) sets of the applicant's fingerprint cards, three (3) current photographs, a signed release authorizing a background investigation, and the appropriate fee, if any. The Nation gaming operation shall provide one copy of the license application to the Commission, accompanied by a current photograph, and two (2) copies of the application to the Board, accompanied by the fingerprint cards, the remaining current photographs, any relevant fee, and the release.

(c) License Fees. The Commission may assess a fee for processing the gaming employee license application and for each renewal. The Board shall establish an appropriate fee for processing the applicant's fingerprint cards and such fee shall be made payable to the Board upon submission of the application and is not refundable.

(d) Background Investigation of Applicants. The Board shall forward a copy of the application and one of the photographs to the State law enforcement agency which shall conduct a background investigation of the applicant. The Board shall forward the fingerprint cards and the appropriate fingerprint processing fee to the Division for a fingerprint-based search of the State criminal history record files and for forwarding to the Federal Bureau of Investigation for a fingerprint-based search of the Federal criminal history record files. The State law enforcement agency shall report the results of its investigation to the Board. The

Division shall forward the results of the criminal records searches to the Board and shall maintain the fingerprint records on a full search and retain basis until such time as the Division is notified that such person is no longer employed in Class III gaming. Such notification shall occur immediately following the termination of such Class III gaming activity.

(e) Action by the Commission.

1. The Commission may deny a gaming employee license to any applicant who:

- a. is under the age of 18;
- b. has been convicted of a felony;
- c. has been convicted of any form of bookmaking or other form of illegal gaming;
- d. has been convicted of any fraud or material misrepresentation in connection with gaming;
- e. has been found through an administrative determination to have violated any law, rule or regulation relating to gaming for which termination of employment or revocation of license might be imposed;
- f. has otherwise been determined to be a person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the effective regulation of gaming or create or enhance the chances of unfair or illegal practices, methods, and activities in the conduct of the gaming permitted pursuant to this Compact; or

g. has failed to provide any information reasonably required to investigate the applicant for a gaming employee license or to reveal any fact material to such application, or has furnished any information which is untrue or misleading in connection with such application.

2. The Commission shall deny a license to any applicant for a position as a gaming employee who is denied certification by the Board pursuant to subsection (f).

3. Upon approval of a license application, the Commission shall send appropriate notification to the applicant, the Nation gaming operation and the Board. The notice shall include the name of the licensee and the license number.

4. Any information received by the Nation gaming operation bearing upon the eligibility for license of any applicant or licensee shall be submitted immediately to the Commission and the Board.

(f) Action by the Board.

1. The Board shall issue a gaming employee certification to any applicant unless he or she meets any of the criteria set forth below. The Board may deny certification to any applicant who:

a. is under the age of 18;

- b. has been convicted of a felony;
 - c. has been convicted of any form of bookmaking or other form of illegal gaming;
 - d. has been convicted of any fraud or material misrepresentation in connection with gaming;
 - e. has been found through an administrative determination to have violated any law, rule or regulation relating to gaming for which termination of employment or revocation of license might be imposed;
 - f. has otherwise been determined to be a person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the effective regulation of gaming or create or enhance the chances of unfair or illegal practices, methods, and activities in the conduct of the gaming permitted pursuant to this Compact; or
 - g. has failed to provide any information reasonably required to investigate the applicant for a gaming employee license or to reveal any fact material to such application, or has furnished any information which is untrue or misleading in connection with such application.
2. The Board shall send appropriate written notice of certification or denial of certification to the Commission and, in the case of a denial, the notice of denial shall be sent to the applicant. In the event of a denial of certification, the

Board shall provide the reasons therefor in the notice of denial.

3. Any information received by the Nation gaming operation bearing upon the eligibility of certification of any applicant or licensee shall be submitted immediately to the Board and the Commission.

(g) Temporary Licensing and Certification. The Nation gaming operation may request the Commission to issue a temporary license for any applicant. In that event, the Commission shall request the Board to issue a temporary certification for that applicant and submit the relevant application, including the applicant's fingerprints, to the Board. The Board shall issue a temporary certification for any applicant whose application discloses no grounds reasonably sufficient to disqualify him or her in the judgment of the Board and the Board's fingerprint (or other) check with the Division does not disclose grounds for denial of certification. All applications for temporary certification submitted within four (4) months following the approval of this Compact by the Secretary of the Interior shall be granted or denied within seven (7) business days of the request by the Commission and receipt by the Board of the completed application and related documents. All requests for temporary certification submitted after the first four (4) months shall be granted or denied by the Board within five (5) business days of the request by the Commission and receipt by the Board of the completed application

and related documents; provided, however, that the Board may request that the seven (7) business day period apply for an additional three (3) month period upon a showing that it is impossible to obtain the results of fingerprint checks within the required period. The Commission may issue a temporary license providing that the Board has issued a temporary certification to the applicant. The temporary certification and temporary license shall remain in effect until either is suspended, revoked or until such time as an annual certification and license are issued. If the Board denies issuance of a temporary certification, it shall notify the Commission setting forth the reason(s) for the denial in writing. Such denial shall not interrupt the processing of the application for an annual license and certification unless such application is withdrawn by the Nation gaming operation.

(h) Issuance and Duration of License. The Commission, in its sole discretion, may issue or refuse to issue a license to any applicant who has received a certification from the Board. The license shall be in a form prescribed by the Commission and shall be effective for a period of not more than one year unless otherwise prescribed by the Commission; provided that a licensed gaming employee who has timely and properly applied for a license renewal may continue to be employed under the expired license until such time as final action is taken on the renewal application by the Commission and the Board. Upon termination of a licensee's employment, the Nation gaming operation shall give written notice

of termination to the Board which shall immediately notify the Division.

(i) Renewal of License. An applicant for a license renewal shall submit a renewal application in quadruplicate to the Nation gaming operation on forms prescribed by the Commission and the Board which shall not require the applicant to furnish historical data previously submitted. The Nation gaming operation shall forward one (1) copy to the Commission and two (2) copies of the renewal application to the Board for renewal certification. The Board shall forward a copy of the renewal application to the State law enforcement agency for its review. No additional background investigation of an applicant for renewal shall be required unless new information concerning the applicant's suitability or eligibility for a license is received by the Nation gaming operation, the Commission, the Board or State law enforcement agency. The Board shall recertify an applicant unless the new information is reasonably sufficient to disqualify him or her in the judgment of the Board pursuant to subsection (f)(1). The Commission may renew the license of any employee who meets the qualifications of this Section and is recertified by the Board. The Commission shall notify the Board of its grant of any renewal application.

(j) Denial, Suspension or Revocation of Certification by the Board and Appeal.

Upon a denial of an initial annual license certification, the Board shall notify in writing, the applicant, the Commission and the Nation gaming operation. The notice shall set forth the

reason(s) for denial. The Board may suspend, revoke or deny a renewal of any gaming employee certification for any violation of this Compact or if new information concerning facts arising either prior to or since the issuance of the initial certification, or any renewal thereof, is received by the Board which information would justify denial of such initial certification, or any renewal thereof. The action of the Board in denying an initial annual license certification is reviewable in the State Supreme Court upon petition of the applicant. No certification shall be suspended, revoked or renewal denied except after notice and hearing under the State Administrative Procedures Act and the applicable rules and regulations of the Board and may be reviewable pursuant to Article 78 of the New York Civil Practice Laws and Rules in the State Supreme Court upon petition by the applicant. The Board shall have the authority to summarily suspend a certification pursuant to such administrative procedures. Upon the suspension or revocation of a certification by the Board, the Commission shall accordingly suspend or revoke the license of the gaming employee.

(k) Denial, Suspension and Revocation of License by the Commission.

Upon a denial of an initial license application, the Commission shall notify in writing, the applicant, the Board and the Nation gaming operation. The notice shall set forth the reason(s) for the denial. The Commission may suspend, revoke or deny a renewal of any gaming employee license for any violation of this Compact or Nation ordinances or if new information concerning facts arising either prior to or since the issuance of the initial

license, or any renewal thereof, comes to the attention of the Commission which information would justify denial of such initial license. The Commission shall immediately notify the Board of every denial, suspension and revocation of a gaming employee license.

(l) Display of License. The license issued by the Commission shall be carried on the person of the licensee in a manner prescribed by the Commission at all times while at a gaming facility. The license shall be surrendered to the Commission upon license suspension, revocation or upon termination of employment.

(m) Identification Badges. The Commission shall establish standards and procedures for the issuance and wearing of serially numbered identification badges by all gaming employees. No person shall have access to any restricted area in a gaming facility without having an authorized and valid identification badge issued by the Commission prominently appended to the approved location on the employee's outer garment. The Commission shall code the design, color(s), wording and lettering of the identification badge in accordance with job title of the employee. Such identification badge shall remain the property of the Commission and must be surrendered by the licensed gaming employee upon the demand by an authorized Commission representative where such employee has been suspended, charged or discharged for violation of any applicable law of the Nation, the United States or the State, or has terminated his or her employment. Upon issuance of the badge, the

name of each recipient, his or her employment position, and the code assigned to his or her badge shall be forwarded to the Board.

SECTION 7. REGISTRATION OF GAMING SERVICE ENTERPRISES.

(a) Requirements for Registration. No enterprise may provide gaming services, gaming supplies or gaming equipment to the Nation gaming operation unless it is the holder of a valid gaming service registration issued by the Board in accordance with the provisions of this Section.

(b) Procedures for Registration. Each applicant for a gaming service registration shall submit a completed registration application in quadruplicate, two copies of which the Commission shall, if it wishes the application considered, promptly forward to the Board. The gaming registration application shall be on a form prescribed by the Board and shall contain such information, documentation and assurances as may be required by the Board, including identification of all of the applicant's principals. Each principal shall submit a completed informational form in duplicate to the Board which shall contain the principal's personal, business and family history, personal and business references, criminal conviction record, business activities, financial affairs, prior gaming industry experience, source of funds used to acquire an interest in the enterprise and general educational background. The informational form shall include a signed release on a form prescribed by the Board authorizing a

background investigation, two (2) sets of fingerprint cards with any appropriate fee and two (2) current photographs.

(c) Fees. Each application for registration and renewal shall be accompanied by a fee payable to the Commission in an amount set by the Commission.

(d) Background Investigation of Applicants. The Board shall forward a copy of the application and informational form(s) and one photograph of each principal to the State law enforcement agency which shall conduct background investigations of the applicants. The Board shall forward the fingerprint cards and the appropriate fingerprint processing fees to the Division for a fingerprint-based search of the State criminal history records files and for forwarding to the Federal Bureau of Investigation for a fingerprint-based search of the Federal criminal history record files. The State law enforcement agency shall report the results of its investigation to the Board. The Division shall forward the results of the criminal record searches to the Board and shall maintain the fingerprint records on a full search and retain basis until such time as it is notified that such gaming service registrant and principals are no longer involved in Class III gaming operated by the Nation; such notification shall occur immediately following the termination of such Class III gaming activity.

(e) Action by Board. The Board shall issue a registration to any gaming service enterprise unless it:

1. has been convicted of a felony;

2. has been convicted of any form of bookmaking or other forms of illegal gambling;
3. has been convicted of any fraud or material misrepresentation in connection with gaming;
4. has been found through an administrative determination, to have violated any law, rule or regulation relating to gaming for which termination of employment or revocation of registration might be imposed;
5. has otherwise been determined to be a person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the effective regulation of gaming or create or enhance the chances of unfair or illegal practices, methods and activities in the conduct of the gaming permitted pursuant to this Compact;
6. has failed to provide any information reasonably required to investigate the application for registration or to reveal any fact material to such application, or has furnished any information which is untrue or misleading in connection with such application; or
7. has a principal who is disqualified by virtue of sub-paragraphs (1), (2), (3), (4), (5), or (6) of this subsection or is under the age of 18.

Upon approval of the application, the Board shall issue a gaming service registration and send appropriate written notice to the applicant, the Commission and the Nation gaming operation. In the event that the Board denies a registration application, the Board shall notify in writing, the applicant, the Commission and the Nation gaming operation of the reasons for the denial.

(f) Temporary Gaming Service Registration.

The Board shall, upon request of the Commission, issue a temporary gaming service registration pending the processing of the application for gaming service registration and informational form(s) (i) when there are no grounds apparent on the face of the

application or informational form(s) reasonably sufficient to disqualify the applicant and the fingerprint (or other) check of each principal made by the Division at the request of the Board does not disclose grounds for disqualification; or (ii) when the applicant is registered as a gaming enterprise in Connecticut or New Jersey. All applications for temporary gaming service registration submitted within four (4) months following the approval of this Compact by the Secretary of the Interior shall be granted or denied within seven (7) business days of the request by the Commission and receipt by the Board of the completed application and related documents. All requests for temporary registration submitted after the first four (4) months shall be granted or denied by the Board within five (5) business days of the request by the Commission and receipt by the Board of the completed application and related documents; provided, however, that the Board may request that the seven (7) business day period apply for an additional three (3) month period upon a showing that it is impossible to obtain the results of fingerprint checks within such period. The temporary gaming service registration shall remain in effect until suspended, revoked or until such time as an annual registration is issued. If the Board refuses to issue a temporary gaming service registration it shall notify the Commission setting forth the reason(s) for refusal in writing. The denial of a temporary gaming service registration shall not interrupt the processing of the application for annual registration unless such

application(s) is (are) withdrawn by the applicant or the Nation gaming operation.

(g) Duration of Registration. Any gaming service registration issued by the Board shall be effective for not more than one year unless a longer period is prescribed by the Board; provided, that a registrant that has timely and properly applied for a renewal may continue to provide services or equipment under an expired registration until final action is taken upon the renewal application and informational form(s) by the Board.

(h) Renewal of Gaming Service Registration. A renewal applicant and its principals shall submit a renewal application and informational form(s) in quadruplicate to the Commission which shall forward two (2) copies to the Board and a copy to the Nation gaming operation. An applicant and its principals shall not be required to re-submit historical data previously furnished to the Board. The renewal application and informational form(s), copies of which shall be forwarded by the Board to the State law enforcement agency and shall be reviewed by both agencies. No additional background investigation of an applicant for renewal shall be required unless new information concerning the applicant's continuing suitability or eligibility for a gaming service registration is received by the Board, the State law enforcement agency, the Commission and the Nation gaming operation. The Board shall renew a gaming service registration unless the new information is sufficient to disqualify the applicant pursuant to subsection (e) of this Section.

(i) Display of Registration and Badge. The gaming service registration form shall be prescribed by the Board. Each employee of the registered enterprise whose duties require such employee to have access to the gaming floor must be licensed as a gaming employee and shall be issued and wear a badge prescribed by the Commission identifying that person as an employee of the registrant. Upon suspension, revocation or termination of the registration of the gaming service enterprise, the registration shall be surrendered to the Board and all licenses and badges surrendered to the Commission.

(j) Denial, Revocation or Suspension of Registration and Appeal.

Upon a denial of an initial registration application the Board shall notify in writing, the applicant, the Commission and the Nation gaming operation. The notice shall set forth the reasons for the denial. The action of the Board in denying an initial application may be reviewable pursuant to Article 78 of the New York Civil Practice Laws and Rules in the State Supreme Court upon petition by the applicant. The Board may suspend or revoke any registration or deny a renewal of any registration for any violation of this Compact or if new information concerning facts arising either prior to or since the issuance of the initial registration or any renewal thereof comes to the attention of the Board which information would justify denial of such initial registration, or any renewal thereof; provided that no registration shall be suspended or revoked or renewal denied except after notice and hearing under the State Administrative Procedures Act and may

be reviewable pursuant to Article 78 of the New York Civil Practice Laws and Rules in the State Supreme Court upon petition by the applicant. The Board shall have the authority to summarily suspend a registration pursuant to such administrative procedures. The Board, the State law enforcement agency and the Commission may investigate any person or entity who holds a registration, or any principal thereof, at any time. Any information received by the Commission or the Nation gaming operation bearing upon the eligibility of any applicant, registrant or principal must be submitted immediately to the Board.

(k) Nation Owned and Operated Entities. In the event the Nation forms an entity which it will wholly own and operate to provide gaming services, gaming supplies or gaming equipment to the gaming facility, the Nation shall notify the Board and certify that the entity is wholly owned and operated by the Nation. Any member of the Nation who is employed by such an entity and whose duties require him to have access to the gaming floor, shall receive a fingerprint and background check, the results of which, along with an advisory opinion, shall be provided by the Board to the designated representative of the Nation government. A person who is not a member of the Nation who is employed by such an entity and whose duties require him to have access to the gaming floor shall be licensed pursuant to Section 6 of the Compact.

SECTION 8. INVESTIGATION OF NON-GAMING ENTERPRISES AND OTHER PERSONS.

(a) Non-Gaming Enterprises. Any enterprise that provides goods, supplies or services to a Nation gaming operation other than gaming services, gaming supplies or gaming equipment in a total amount exceeding the sum of \$50,000.00 in a single twelve month period shall be identified by the Commission to the Board. The Commission shall cooperate with the Board and the State law enforcement agency in any reasonable investigation deemed necessary by either State agency relative to the fitness of such enterprise to engage in any business with the Nation gaming operation. The Board may bar such enterprise from providing such goods, supplies or services to the Nation gaming operation upon a determination that such enterprise or a representative thereof is a person or entity whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the effective regulation of gaming or create or enhance the dangers of unfair or illegal practices, methods and activities in the conduct of gaming; provided, however, that such Board action is reviewable in the State Supreme Court upon petition of the enterprise in accordance with the provisions set forth in subsection (j) of Section 7.

(b) Other Persons. Upon written request of the Nation or the Commission, the Board and the State law enforcement agency shall conduct a background investigation of any person, and provide a recommendation based on the results of the investigation. The request shall set forth the reason(s) for the background investigation. Such investigation shall include a criminal records

check of the individual in question and such other investigation as may be deemed appropriate by the Nation.

SECTION 9. STANDARDS OF OPERATION.

The Nation gaming operation shall conform to the standards of operation and management set forth in Appendix B to this Compact.

SECTION 10. FINANCIAL PROCEDURES.

(a) The Chart of Accounts. The Nation's accounting procedures for its gaming operations shall comply with Appendix C to this Compact.

(b) Reimbursement for State Costs of Oversight. Appendix D of this Compact shall be the exclusive procedure followed by the parties for dealing with reimbursement of State costs of oversight.

SECTION 11. MISCELLANEOUS PROHIBITIONS.

(a) Prohibition on Possession of Firearms. No person shall be permitted to bear firearms of any kind within Nation gaming facilities except for members of the State law enforcement agency and any other law enforcement officers or persons authorized by law. The Commission shall take appropriate measures to inform the public of this prohibition.

(b) Prohibition on Attendance by Minors. No person under the age of eighteen (18) shall be admitted into any Class III gaming facility, nor be permitted to place any wager, directly or indirectly.

(c) Persons Barred From Facilities. The Commission shall establish, maintain and share with the Board a list of persons barred from the gaming facilities because their criminal histories, associations with career offenders or actions pose a threat to the integrity of the gaming activities or the safety of the Nation's patrons or employees. The Commission shall exclude persons on such list from entry into Nation gaming facilities. The Commission shall also exclude persons engaging in disorderly conduct or other conduct jeopardizing public safety in the Class III gaming facility.

SECTION 12. HEALTH AND SAFETY STANDARDS.

Nation ordinances and regulations governing health and safety standards applicable to gaming facilities shall be no less rigorous in meeting the objectives of health and safety than standards, codes and laws of the State relating to public facilities with regard to building and fire safety, health, sanitation and discharges. The Nation shall retain independent inspectors whose qualifications shall meet State standards for such inspectors, and who shall report to the Nation on meeting such objectives. The Nation shall make such reports available to the Board.

SECTION 13. TORT REMEDIES FOR PATRONS.

The Nation agrees to require the Nation gaming operation to maintain liability insurance to compensate injured patrons of gaming facilities. The Nation shall directly, or through its operator, establish procedures for the adjudication of compensation for tort claims by patrons of its gaming facilities. It is understood that the Nation's agreement to this provision is not intended to and does not constitute a waiver of its sovereign immunity from suit with respect to any such claim and its failure to pay any claim, in whole or in part, shall not constitute a breach of this agreement nor be grounds for dispute resolution between it and the State under this Compact. This Section does not preclude an injured party from pursuing any other remedy available under applicable law.

SECTION 14. DISPUTE RESOLUTION.

(a) General Terms. The Nation and the State hereby establish a method of non-judicial dispute resolution in order to foster a spirit of cooperation and efficiency in the administration of and compliance by each party with the provisions of this Compact. Except for disputes concerning the games and activities permitted under this Compact, all disputes concerning compliance with and interpretation of any provisions of the Compact shall be resolved by binding arbitration in accordance with the procedures set forth below. A claim by the State that the Nation is conducting a Class III gaming activity not authorized by this Compact is not subject

to mandatory arbitration. If the State elects not to arbitrate such a claim, its rights to bring an action pursuant to 25 U.S.C. § 2710(d)(7)(A)(iii) are hereby preserved. The Nation's right to seek declaratory judgment that activities in dispute are permitted pursuant to the Compact is also preserved.

(b) Notice. The party seeking arbitration shall serve upon the other a notice of demand to arbitrate. The notice shall specify with particularity the nature of the dispute, the particular provision of the Compact or its Appendices at issue and the proposed relief sought by the party demanding arbitration. Designated representatives of the State and the Nation shall thereafter meet within five (5) days of receipt of the written notice in an effort to resolve the dispute.

(c) Procedures for Dispute Resolution. If the dispute is not resolved to the satisfaction of the parties within thirty (30) days after service of the notice set forth in subsection (b) above, the dispute shall be determined by arbitration pursuant to the rules of the American Arbitration Association. The parties shall maintain a list of mutually agreed upon arbitrators from which an arbitrator shall be selected by the parties to resolve any given dispute. In the event of a disagreement as to the arbitrator to be selected, each party shall select one arbitrator and the two arbitrators shall select a third. The arbitrator(s) shall be selected within thirty-five (35) days of the notice set forth in subsection (b) above.

(d) Arbitration costs. The cost of arbitration shall be paid by the losing party, unless the decision of the arbitrator(s) shall specify otherwise, but the parties shall bear their own costs and attorneys' fees associated with their participation in the arbitration. All arbitration proceedings shall be conducted to expedite resolution of the dispute and minimize cost to the participants.

(e) Remedies. The arbitrator(s) may impose any relief available in law or equity warranted under the circumstances.

(f) Arbitration Decision. The decision of the arbitrator(s) shall be final, binding and unappealable. Failure to comply with the judgment and award within the time specified therein for compliance shall be deemed a breach of the Compact, and the prevailing party may bring an action in the United States District Court of the Northern District of New York to enforce the judgment and award.

SECTION 15. AMENDMENT AND MODIFICATION.

The provisions of this Section govern the amendment and modification of the Compact and its Appendices.

(a) Compact. The terms and conditions of this Compact may be modified or amended by written agreement of both parties. A request to amend or modify the Compact by either party shall be in writing, specifying the manner in which a party requests the Compact to be changed and the reason(s) therefor, and the proposed language. Representatives of the parties shall meet within five

(5) days of the request and shall expeditiously and in good faith negotiate whether and on what terms and conditions the Compact will be amended or modified. In the event that they cannot agree within thirty (30) days of the request, either party may submit the matter directly to arbitration pursuant to the provisions of Section 14, except as provided in subsection (b) (4) of this Section. A request to amend or modify the Compact shall be deemed notice of demand to arbitrate within the meaning of Section 14(b), and the thirty (30) day period provided for herein shall be deemed to satisfy the thirty (30) day time requirement of Section 14(c).

(b) Appendix A: Additional Games and Activities.

(1) If the State adopts a Class III game or activity that is not included in Appendix A to the Compact, the State shall give written notice of that game or activity with its specifications, within five (5) days of its adoption, to the Nation. The Nation may adopt such specifications or submit its own specifications to the Board. Should the Nation adopt the State's specifications, the game or activity shall be added to Appendix A effective as of the date that the Nation adopted the State's specification for such game or activity, and the Nation shall notify the State of the effective date of such addition to Appendix A. Should the Nation submit its own specifications for the game or activity to the State, the State shall within fifteen (15) days notify the Nation that it accepts or rejects those specifications. If the State accepts the specifications submitted by the Nation, the game or

activity shall be added to Appendix A effective as of the date of the State's acceptance of that game or activity. If the State does not accept the specifications submitted by the Nation, representatives of the State and the Nation shall meet within five (5) days to settle the dispute.

(2) If the Board agrees to permit any Nation or Tribe to conduct a Class III game or activity which has not been authorized under this Compact, the Board shall notify the Nation as provided in subsection (b)(1) and the procedures of that subsection shall then apply.

(3) The Nation may request that additional games or activities, or new specifications for existing games or activities, be added to Appendix A by submitting written specifications to the State. The State shall within fifteen (15) days notify the Nation that it accepts or rejects the game or activity for Appendix A to the Compact. If the State accepts the game or activity, the game or activity and its specifications shall be added to Appendix A effective as of the date of the State's acceptance of that game or activity. If the State does not accept the game or activity or its specifications, representatives of the Nation and the State shall meet within five (5) days after the written request and shall negotiate in good faith whether the new game or activity may be added.

(4) If the parties cannot agree with respect to the addition of any game or activity requested by the Nation, or

the specifications thereof, the arbitration procedures of Section 14 shall not apply to that dispute. A request by the Nation to modify the Compact pursuant to subsections (b)(1), (b)(2) or (b)(3) of this section shall constitute, to the extent of that request only, a request to negotiate a Compact pursuant to 25 U.S.C. § 2710(d)(3)(A). The right to seek relief under 25 U.S.C. § 2710(d)(7)(A)(i) in the event negotiations fail is specifically preserved.

(c) Appendices: Other. Except as provided for by subsection (b) of this Section, the terms and conditions of any Appendix to this Compact may be amended or modified and an Appendix may be added as hereinafter described. The party seeking amendment or modification shall give written notice to the other of the proposed amendment or modification. The notice shall be given twice, the second to follow the first by no later than five (5) days. If the party receiving notice does not object within fifteen (15) days after receipt of the second notice, the proposed amendment or modification shall be effective and shall be added to the Compact. If the party receiving notice objects, the parties shall meet within five (5) days of the objections and shall negotiate in good faith to resolve the objection. If the parties cannot agree within thirty (30) days of the objection, either party may submit the matter to arbitration in the manner provided in Section 14.

SECTION 16. TERMINATION.

Once effective this Compact shall be in effect until terminated by written agreement of both parties.

SECTION 17. SUBSEQUENT NEGOTIATIONS.

Nothing in this Compact shall be deemed to waive the right of the Nation to request negotiations for amendment or modification to this Compact with respect to a Class III game or activity which is to be conducted on the Nation lands but which is not permitted under the provisions of this Compact.

SECTION 18. PROVISION OF COMPACTS TO THE NATION.

In the event that another Indian nation or Tribe enters into a compact with the State for the conduct of Class III gaming, the State shall provide a copy thereof to the Nation within five (5) days following its effective date.

SECTION 19. SOVEREIGN IMMUNITY.

Except as specifically provided herein, neither the State nor the Nation waives its sovereign immunity, under either state or federal law or arising from native existence, by entering into this Compact.

SECTION 20. CALCULATION OF TIME.

In computing any period of time prescribed or allowed by this Compact or any laws, rules or regulations of the Nation, the day of

the act, event or default from which the designated period of time begins to run shall not be included.

SECTION 21. COUNTERPARTS.

This Compact may be executed by the parties in any number of separate counterparts with the same effect as if the signatures were upon the same instrument. All such counterparts shall together constitute one and the same document.

SECTION 22. SEVERABILITY.

In the event that any section or provision of this Compact is held invalid, or its application to any particular activity is held invalid, it is the intent of the parties that the remaining sections of the Compact and the remaining applications of such section or provision shall continue in full force and effect.

SECTION 23. NOTICES.

All notices and other communications required or authorized to be served in accordance with this Compact shall be served by U.S. registered or certified mail, return receipt requested, at the following addresses:

Nation Representative	Chairman
Oneida Indian Nation	NYS Racing and Wagering Board
Box 1	400 Broome Street
Vernon, NY 13476	New York, NY 10013

or to such other address or addresses as either the Nation or the State may from time to time designate in writing.

SECTION 24. EXECUTION.

DATE: 4/1/93

Ray Halbritter
RAY HALBRITTER
NATION REPRESENTATIVE
ONEIDA INDIAN NATION OF
NEW YORK

DATE: 4/16/93

Mario M. Cuomo
MARIO M. CUOMO
GOVERNOR
STATE OF NEW YORK

SECTION 26. APPROVED.

DATE: 6/4/93

Thomas Thompson
Acting ASSISTANT SECRETARY,
INDIAN AFFAIRS
U. S. DEPARTMENT OF INTERIOR

APPENDIX A:

Approved Games and Activities

1. BACCARAT. (*Amended 9/4/97)

(a) Equipment.

- (1) A table with a Baccarat layout.
- (2) At least six decks of cards with backs of the same color and design and two solid-colored cutting cards.
- (3) A dealing shoe.
- (4) An electromechanical card-shuffling device (optional).

(b) Value of the Cards.

- (1) The "Value" of the cards in each deck will be as follows:
 - (i) Any card from 2 to 9 will have its face value;
 - (ii) Any Ten, Jack, Queen or King will have a value of zero; and
 - (iii) Any Ace will have the value of one.
- (2) The "Point Count" of a hand will be a single digit number from 0 to 9 inclusive and will be determined by totalling the value of the cards in the hand. If the total of the cards in a hand is a two-digit number, the left digit of such number will be discarded as having no value and the right digit will constitute the Point Count of the hand. Examples of this rule are as follows:
 - (i) A hand composed of an Ace, a 2 and a 4 has a Point Count of 7; and
 - (ii) A hand composed of an Ace, a 2 and a 9 has a total of 12 but only a Point Count of 2 since the digit 1 in the number 12 is discarded.

(c) Types of Wagers.

- (1) The following wagers will be permitted to be made by a participant at the game of Baccarat:
 - (i) A wager on the "Banker's Hand" which will:
 1. Win if the "Banker's Hand" has a Point Count higher than that of the "Player's Hand";

2. Lose if the "Banker's Hand" has a Point Count lower than that of the "Player's Hand"; and

3. Be void if the Point Count of the "Banker's Hand" and the "Player's Hand" are equal.

(ii) A wager on the "Player's Hand" which will:

1. Win if the "Player's Hand" has a Point Count higher than that of the "Banker's Hand";

2. Lose if the "Player's Hand" has a Point Count lower than that of the "Banker's Hand"; and

3. Be void if the Point Count of the "Banker's Hand" and the "Player's Hand" are equal.

(iii) A wager called a "Tie Bet" which will win if the Point Counts for the "Banker's Hand" and the "Player's Hand" are equal and will lose if such Point Counts are not equal.

(2) Unless otherwise approved by the Nation, the gaming operation will not accept any wager at the game of Baccarat other than those specified in paragraph (1) of this section.

(3) All wagers at Baccarat will be made by placing gaming chips (including plaques) on the appropriate areas of the Baccarat layout except that verbal wagers accompanied by cash may be accepted only when there is not sufficient time to convert such cash into gaming chips. Whenever verbal wagers accompanied by cash are accepted, these wagers will not be paid until such cash is converted into gaming chips. The cash received for a verbal wager will not, under any circumstances, be returned to a player.

(4) No wagers at Baccarat will be made, increased or withdrawn after the dealer calling the game has announced "No More Bets".

(d) Payoffs.

(1) A winning wager made on the "Player's Hand" will be paid off by the gaming operation at odds of 1 to 1.

(2) A winning wager made on the "Banker's Hand" will be paid off by the gaming operation at odds of 1 to 1, except that the gaming operation will extract a charge (to be known as a "commission" or "vigorish") on the amount won at four percent (4%) or five percent (5%) of such amount. Wagers will be accepted in \$5 increments only, and therefore the vigorish will increase in \$.20 increments if the vigorish is 4% or in \$.25 increments if the vigorish is 5%. The gaming operation may collect the vigorish from a participant at the time the winning payoff is made or may defer it to a later time provided, however, that all outstanding vigorish will be collected prior to reshuffling the cards in a shoe and in no event will the collection of any vigorish be deferred beyond such point. The amount of any vigorish not collected at the time of the winning payout will be evidenced by the placing of coins or marker buttons (lammers) containing the amount imprinted with the number of the participant owing such vigorish.

(i) The gaming operation will notify the appropriate personnel in writing twenty-four (24) hours in advance of any change in the vigorish percentage (four or five percent).

(ii) The gaming operation will conspicuously post at the Baccarat table(s) the vigorish percentage in effect (four or five percent).

(iii) When 4% vigorish is in effect, the gaming operation will utilize \$.20 denomination marker buttons (lammers) and \$.25 denomination marker buttons when 5% vigorish is in effect.

(iv) Vigorish percentage will be the same for all Baccarat tables at all times. Any change to the vigorish percentage will be done uniformly for all Baccarat tables throughout the gaming operation; vigorish may differ, however, between Baccarat and Mini-Baccarat.

(3) A winning tie bet will be paid off by the gaming operation at odds of at least 8 to 1.

(e) The Shuffle.

(1) After receiving the six or more decks of cards at the table, the dealer calling the game will sort and inspect the cards.

(2) Following the inspection of the cards by the dealer and verification by the floorperson assigned to the table, the cards will be spread out face upwards on the table for visual inspection by the first participant or

participants to arrive at the table. The cards will be spread out in columns by deck according to suit and in sequence within the suit.

(3) After the first participant or participants is afforded an opportunity to visually inspect the cards, the cards will be turned face downward on the table, mixed thoroughly by a "washing" or "chemmy shuffle" of the cards and stacked.

(4) Immediately prior to the commencement of play and after each shoe of cards is completed, the dealer or the electromechanical card shuffling device will shuffle the cards so that they are randomly intermixed.

(5) After the cards have been shuffled, the gaming operation may choose to have the dealer lace approximately one deck (or more) of cards so that they are evenly dispensed into the remaining stack. The dealer calling the game will then offer the stack of cards, with backs facing away from him or her, to the participants to be cut. The dealer will begin with the participant seated in the highest number position at the table or, in the case of a reshuffle, the last curator and, working clockwise around the table, will offer the stack to each participant until a participant accepts the cut. If no participant accepts the cut, the dealer will cut the cards.

(6) The cards will be cut by placing the cutting card in the stack at least ten (10) cards in from either end.

(7) Once the cutting card has been inserted into the stack, the dealer will take all cards in front of the cutting card and place them to the back of the stack. The dealer will then insert one cutting card in a position at least 14 cards in from the back of the stack and the second cutting card at the end of the stack. The stack of cards will then be inserted into the dealing shoe for commencement of play. Prior to commencement of play, the dealer will remove the first card from the shoe and place it, with an additional amount of cards equal to the amount on the first card drawn, in the discard bucket after all cards have been shown to the players. For purposes of this paragraph, face cards and tens count as tens; Aces count as one.

(f) The Play.

(1) At the commencement of play, the dealer calling the game will offer the shoe to the participant in seat number one at the table. If such participant rejects the shoe or if there is no one in seat number one, the dealer will offer the shoe to each of the other participants in

turn counterclockwise around the table until one of the participants accepts it.

(2) The participant to accept the shoe, (hereinafter called the "curator"), will be responsible for dealing the cards in accordance with this section and the instructions of the dealer calling the game.

(3) There will be two hands dealt in the game of Baccarat, one of which will be designated the "Player's Hand" and the other designated the "Banker's Hand".

(4) At the commencement of each round of play, the dealer calling the game will announce "No More Bets" after which he or she will instruct the curator to commence dealing the cards by announcing "Cards".

(5) The curator will deal an initial four cards from the shoe. The first and third card dealt will constitute the first and second cards of the "Player's Hand". The second and fourth card dealt will constitute the first and second cards of the "Banker's Hand". After the cards are dealt to each hand, the dealer calling the game will place them face upwards in front of himself or herself.

(6) After the initial four cards have been dealt, the dealer calling the game will announce the Point Count of the "Player's Hand" and Point Count of the "Banker's Hand".

(7) Following the announcement of the Point Counts of each hand, the dealer calling the game will instruct the curator whether to deal a third card to each hand which instructions will be in conformity with the requirements of paragraphs (10) - (16) below.

(8) Any third card required to be dealt by the dealer's instructions will first be dealt face upwards to the "Player's Hand" and then to the "Banker's Hand" by the curator.

(9) Whenever the cutting card appears during play, the cutting card will be removed and placed to the side and the hand will be completed. Upon completion of that hand, the dealer calling the game will announce "Last Hand". At the completion of one more hand, no more cards will be dealt until the reshuffle occurs.

(10) If the Point Count of either the "Player's Hand" or the "Banker's Hand" after the initial two cards are dealt to each is an 8 or 9 (which will be called a "Natural"), no more cards will be dealt to either hand.

(11) If the Point Count of the "Banker's Hand" on the first two cards is 0 to 7 inclusive, the "Player's Hand" will draw (i.e., take a third card) or stay (i.e., not take a third card) in accordance with the requirements of Table 1 below:

TABLE 1

THIRD CARD DETERMINATION FOR PLAYER'S HAND

Player Having	Third Card Determination
0 to 5	Draws
6 to 9	Stays

(12) The "Banker's Hand" will draw (i.e., take a third card) or stay (i.e., not take a third card) in accordance with the requirements of Table 2 below:

TABLE 2

THIRD CARD DETERMINATION FOR BANKER'S HAND

		Third Card Drawn By Players Hand										
		No Third Card Drawn	0	1	2	3	4	5	6	7	8	9
Point Count of Banker's Hand	0		Banker's Hand Draws									
	1		Banker's Hand Draws									
	2		Banker's Hand Draws									
	3	D	D	D	D	D	D	D	D	S	D	
	4	D	S	S	D	D	D	D	D	S	S	
	5	D	S	S	S	S	D	D	D	S	S	
	6	S	S	S	S	S	S	D	D	S	S	
	7		Banker's Hand Stays									
	8		Banker's Hand Stays									
	9		Banker's Hand Stays									

(13) The first vertical column in Table 2 labeled "Point Count of Banker's Hand" will refer to the Point Count of the "Banker's Hand" after the first two cards have been dealt to it.

(14) The first horizontal column at the top of Table 2 labeled "Third Card Drawn by Player's Hand" will refer to the value of the third card drawn by the Player's Hand as distinguished from the Point Count of the "Player's

Hand".

(15) The letter "D" used on Table 2 will mean the "Banker's Hand" must draw a third card and the letter "S" used in Table 2 will mean that the "Banker's Hand" must stay (i.e., not draw a third card).

(16) The method of using Table 2 will be to find the Point Count of the "Banker's Hand" in the first vertical column and trace that horizontally across the table until it intersects the third card drawn by the "Player's Hand". The box at which such intersection takes place will show whether the "Banker's Hand" will draw a third card or stay. For example, if the Point Count of the "Banker's Hand" after two cards is 5, and the value of the third card drawn by the "Player's Hand" after two cards is 4, the Table shows that the "Banker's Hand" will draw a third card.

(17) After each hand has received all the cards it is entitled to under these procedures, the dealer will announce the final Point Count of each hand indicating which hand has won the round. If the two hands have equal Point Counts, the dealer will announce "Tie Hand".

(18) After the result of the round is announced, the dealer or dealers responsible for the wagers on the table will collect all losing wagers, pay off all winning wagers and either collect or mark up any vigorish or commission owed in accordance with the procedures outlined above.

(19) It will be the option of the curator, after any round of play either to pass the shoe or remain as curator except that:

(i) The curator will pass the shoe whenever the "Banker's Hand" loses; and

(ii) The dealer or floorperson assigned to the table may order the curator to pass the shoe if the curator unreasonably delays the game or repeatedly makes invalid deals.

(20) Whenever a voluntary or compulsory relinquishment of the shoe occurs, the dealer will offer the shoe to the participant immediately to the right of the previous curator and, if he or she does not accept it or there is no participant in that position, the dealer will offer the shoe to each of the other participants in turn, counterclockwise, around the table. The first to accept the shoe when offered will become the new curator.

(g) Irregularities.

(1) A third card dealt to the "Player's Hand" when no third card is authorized under these procedures will become the third card of the "Banker's Hand" if the "Banker's Hand" is obliged to draw by Table 2. If, in such circumstances, the "Banker's Hand" is required to stay, the card dealt in error will become the first card of the next hand unless it has been disclosed. In such case, the disclosed card and an additional number of cards equal to the amount of this card will be drawn face upwards from the shoe and placed in the discard bucket.

(2) A card drawn in excess from the shoe, if not disclosed, will be used as the first card of the next hand of play. If the card has been disclosed, a burn card procedure as described in paragraph (1) above shall be implemented.

(3) All cards found face upwards in the shoe will not be used as the first card of the next hand of play. If the card has been disclosed, a burn card procedure as described in paragraph (1) above shall be implemented.

(4) All cards found face upwards in the shoe will not be used in the game and will be placed in the discard bucket, along with an additional amount of cards, drawn face upwards, which agrees with the number on the cards found face upwards in the shoe.

(5) If there are insufficient cards remaining in the shoe to complete a round of play, that round will be void and a new round will commence after the entire set of cards is reshuffled and placed in the shoe.

(h) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers at each table. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted on a sign at each table.

2. BANG.

(a) Equipment.

(1) A table with a layout and an upright rail around the outside edges of the table. The rail serves as a backboard and also helps to prevent the dice from falling off the table.

(2) Two dice. The dealer has at least five dice in front of him or her, from which the shooter selects two dice to roll.

(b) Players.

Any number can play, provided there is space at the table.

(c) The Play.

(1) Players place bets on the betting layout. The sections marked "Beat the Dealer Hi Dice" on the layout are considered the outside sections of the layout and are referred to as outside bets. All other betting spaces on the layout are considered to be inside sections or inside bets.

(2) The dealer announces: "No more bets."

(3) The dealer rolls first. The total count of the two dice that face upward when the dice come to rest are considered the dealer's point. The dealer places a marker on the layout to indicate the dealer's point.

(4) The dealer's roll affects all inside bets, *i.e.*, all bets on the layout except Beat the Dealer Hi Dice bets. (Note that Big Six and Big Eight bets are active on every roll of the dice, but are only affected by a losing roll of 7, or by the roll of a winning 6 or 8, respectively.) After collecting the losing inside wagers and paying the winning inside wagers, the dealer announces: "Place inside bets only." No additional, "Beat the Dealer Hi Dice" bets can be placed at this time.

(5) The first bettor on the dealer's left rolls next. This player is rolling for all inside bets and is rolling for all other "Beat the Dealer Hi Dice" bettors at the table.

(6) After collecting the losing wagers and paying the winning wagers, the first game is over.

(7) The dealer announces: "Place all bets inside and outside."

(8) To start a new game, the dealer rolls the dice and places the marker to indicate the new dealer's point. After collecting the losing wagers and paying the winning inside wagers, the dealer again announces: "Place inside bets only." The dealer offers the dice to the player to the left of the previous shooter. This shooter's roll affects all bets on the layout. (Note that after the dealer rolls to start each new game, the dice pass clockwise around the table to the player to the left of the previous shooter.)

(d) Bets and Odds.

(1) All bets must be made before the dice are thrown. Bets will not be honored while the dice are rolling.

(2) Field bet. A player can bet on any one roll that one of the following numbers will come up: 2, 3, 4, 9, 10, 11 or 12. If it does, the player wins and is paid off at even money. If 5, 6, 7 or 8 comes up, the player loses.

(3) Under seven. The player wins on any one roll if the total count of the two dice is 2, 3, 4, 5 or 6. Any other number loses. Payoff is even money.

(4) Any seven. The player wins on any one roll if the total count of the two dice is 7. Payoff is 4 to 1.

(5) Over seven. The player wins on any one roll if the total count of the two dice is 8, 9, 10, 11, or 12. Any other number loses. Payoff is even money.

(6) Big six. The player wins if a 6 is rolled before a 7. Payoff is even money.

(7) Big eight. The player wins if an 8 is rolled before a 7. Payoff is even money.

(8) Beat the Dealer Hi Dice. Winning Beat the Dealer Hi Dice bets are paid off at even money. The gaming operation wins on all ties.

(e) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers at each table. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted on a sign at each table.

3. BEAT THE DEALER.

(a) Equipment.

- (1) A cage, chute or cup.
- (2) Two dice.
- (3) A table layout.

(b) The Play and Odds.

- (1) The player places the wager in the space on the layout in front of him or her.
- (2) The dealer and the player each tumble the dice by hand or in the cage, chute, or cup. The dealer goes first. To win, the player or players must get a higher total count than the dealer; the dealer wins on all ties. The odds on this game are even or 1 to 1.

(c) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers at each table. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted on a sign at each table.

4. BELL JARS.

- (a) "Bell Jars" shall mean and include those games not played at the same location as the game of bingo in which a participant shall draw a card from a jar or other suitable container which contains numbers, colors or symbols that are covered and which, when uncovered, may reveal that a prize shall be awarded on the basis of a designated winning number, color or symbol or combination of numbers, colors or symbols. This section shall include the games of pulltabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo if not played at the same location as the game of bingo.

- (b) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers for each game. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted.

5. BEST POKER HAND.(a) Equipment.

- (1) A table layout numbered 1 through 10.
- (2) A single deck of 52 cards.

(b) The Players.

Any number of players who can fit around the table.

(c) The Play.

The cards are thoroughly shuffled and cut by the dealer. Ten hands of five cards each are dealt face up from the top of the deck and the number corresponding to the best poker hand wins. The dealer collects the losing wagers and pays the winner(s). All cards are shuffled and cut by the dealer after each hand.

(d) Bets.

Bets are placed on the table layout numbered 1 through 10. Players may continue placing bets until the dealer calls "No more bets". The dealer then deals the cards.

(e) Odds.

No pair (highest hand)	Even money	Flush	12 to 1
One pair	2 to 1	Fullhouse	15 to 1
Two pairs	3 to 1	Four of a kind	20 to 1
Three of a kind	5 to 1	Straight flush	25 to 1
Straight	10 to 1	Royal flush	50 to 1

(f) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers at each table. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted on a sign at each table.

6. **BIG NINE.**(a) Equipment.

A wheel of variable size. The rim of the wheel is divided into sections, some of which bear different combinations of the numbers 1 through 9. Other sections display a picture of a diamond, star and eagle. The betting table or surface has a corresponding layout.

(b) The Play.

(1) A player places a wager on one or more numbers or symbols on the layout and the dealer spins the wheel. When the wheel stops, the section in which the indicator arm rests is the winning combination.

(2) If the player places a wager on the number 1 and the wheel stops at 1-1-9-9-9, the payoff odds are 2 to 1 since the number 1 showed twice. If the wheel stops at 1-1-1-4-4, the payoff odds are 3 to 1 since the number 1 showed three times. This holds true for all the numbers; e. g., if the player places a wager on number 5 and the wheel stops on 2-2-5-5-5, the payoff odds are 3 to 1. If it stops at 5-5-5-5-5, the payoff odds are 5 to 1.

(3) The odds for the diamond, star or eagle shall be displayed on the layout.

(c) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers at each table. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted on a sign at each table.

7. BIG SIX.(a) Equipment.

A wheel of variable size. Around the rim of the wheel's surface are sections, each of which shows one side of three dice bearing different combinations of the numbers 1 through 6. The betting table or surface has a corresponding layout.

(b) The Play.

(1) A player places a wager on one or more numbers on the layout and the dealer spins the wheel. When the wheel stops, the section in which the indicator arm rests is the winning combination.

(2) If the player places a wager on the number 1 and the wheel stops at 1-2-3, the payoff odds are 1 to 1 since the number 1 showed only once. If the wheel stops at 1-1-2, the payoff odds are 2 to 1 since the number 1 showed twice. This holds true for all the numbers; e.g., if the player places his wager on number 5 and the wheel stops on 4-5-6, the payoff odds are 1 to 1. If it stops at 5-5-5, the payoff odds are 3 to 1.

(c) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers at each table. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted on a sign at each table.

8. BLACK JACK. (*Amended 2/23/95)

(a) Equipment.

- (1) A Black Jack table with up to seven betting spaces on its layout.
- (2) One to eight decks of 52 cards each, shuffled together and used as one.
- (3) A card shuffling device (optional).
- (4) One or two solid-colored cutting cards and a dealing shoe (optional).
- (5) Meters recording the amount of the Progressive Jackpot (optional).
- (6) Display board(s) reflecting the amount of the Progressive Jackpot (optional).

(b) Dealer.

The dealer is the person who deals the cards and controls the bank. He or she never surrenders the deal or the bank.

(c) Number of Players.

Up to seven players, each of whom may bet on several hands depending on the betting spaces available.

(d) Value of Cards.

- (1) Aces count either 1 or 11 at the discretion of the player.
- (2) Kings, queens and jacks each have a count of 10.
- (3) All other cards are counted at their face value.

(e) The Object of the Game.

A player tries to obtain a higher total card count than the dealer by reaching 21 or as close to 21 as possible without exceeding that count. If the player's total count exceeds 21, he or she has "busted" and must turn his or her cards face-up at once. The player has lost his or her bet, and the dealer may take the player's wager. The player, at his or her discretion, may stand or draw one or more cards in an attempt to better the count.

(f) Betting.

Before the deal begins, each player must place his or her bet in the betting space directly before him or her in full view of the dealer. When a player plays more than one hand at a time, he or she must play the hand farthest to his or her right to completion before being permitted to play the next hand or hands. The dealer may check the player's bet to see if its within specified limits.

(g) The Deal.

After a stack of cards is placed into the dealing shoe for commencement of play, the dealer removes the first card from the dealing shoe and discards it by placing it aside face-down without showing its face value. This card and other discarded cards are not to be used again until the dealing box is emptied. This procedure, known as "burning" a card or a "burnt" card, is also followed when a new dealer enters the game. All cards used to make a hand are discarded in the same manner and the player may request that the "burned" card be viewed face-up. After the first dealt card has been "burnt", the dealer, starting with the player on his or her extreme left, begins dealing clockwise giving one card face-up to each player and one face-up to himself or herself. He or she next deals each player, starting with the player on his or her extreme left, a second face-up card and one face-down to himself or herself. The Nation operation has the option of dealing one or both card(s) face-down to each player.

(h) The Play.

The Nation shall have three options in the event of ties between the dealer and the player(s):

Option One allows the Nation to honor a "push" or standoff in the case of all ties;

Option Two allows the Nation to honor a "push" or standoff when the dealer and players have a natural 21 only and the Nation wins all other ties; and

Option Three allows the Nation to win all ties between the dealer and the player(s).

The selection of the option shall be set forth on a sign conspicuously posted at the gaming table.

(1) If the dealer's face-up card is a 10-count or an ace, he or she must look at his or her facedown (hole) card. If the dealer has a natural 21 (a count of 21 with two cards), he or she may face it and announce, "Twenty-one" or "Black Jack." If the Nation has exercised the option that all ties shall

constitute wins for the Nation, the dealer then wins and collects all bets, including bets from players having a natural 21. If the Nation has exercised either Option One or Option Two, the dealer declares all ties to be "pushes" and no action is taken on these hands. The dealer wins and collects the bets from players not having a natural 21.

(2) When the dealer does not hold a natural 21, the player at his or her extreme left plays first. If the player holds a natural 21, the dealer announces it and faces the player's cards so that he or she can verify the count. If the Nation has exercised Option Two or Option Three, the dealer pays off the winning natural 21 at 2-to-1 odds. If the Nation has exercised the option that all ties are "pushes", (standoffs), then the dealer pays off the winning natural 21 at 3-to-2 odds. The dealer then, "burns" the two played-out cards.

(3) If the player's two cards total less than 21, he or she may elect:

(i) to stay if the player is satisfied with the total count of his or her two cards; or

(ii) to signal for an additional card if he or she is not satisfied with the total count. The player can continue to ask for cards until he or she is satisfied with the total count of his or her cards. If the player draws a card which puts him or her over 21, the play is "bust". The dealer takes the player's wager and cards and "burns" the cards in the discard pile. The play moves to the player's left clockwise around the table, until all players have played out their hands.

(i) The Dealer's Turn at Play.

If all players have "busted", the dealer merely places his or her own cards in the discard pile and deals a new hand. If any player or players are left, the dealer plays his or her hand as follows:

(1) The dealer turns up his hole card so that all the cards are exposed.

(2) If the dealer's count is 17, 18, 19 or 20, he or she must stay.

(3) If the dealer's count is 16 or less, he or she must

draw a card and continue to draw until his or her count reaches 17 or more, at which point he or she must stay. If the dealer holds a "soft" 17, i.e., a 17-count which includes an ace, he or she must also stay. This also applies to a soft 18, 19 or 20. The dealer stays on 17 and must pull on 16 or less.

(4) If a dealer errs and deals a player a card which the player did not call for, and the card is refused by the player, the card is considered a "dead" card and must be "burnt" and discarded.

(j) Payoffs.

(1) At the end of his or her play, the dealer starts with the first active player on his or her extreme right and moves around the table counter-clockwise, paying off players who have a higher count than the dealer's with an amount equal to the wager they placed and collecting the players' wagers showing a lesser count. If the dealer's count exceeds 21, he or she pays off each surviving player an amount equal to the player's wager. If the player and dealer have the same count, the dealer either wins and collects the bet or declares a "push" (standoff), depending upon the option exercised by the Nation.

(2) Notwithstanding any of the other provisions of this section, the Nation may, at its discretion, offer one or more of the following payout odds for winning wagers:

(i) Three cards consisting of the 6, 7, and 8 of the same suit paying at odds of 2 to 1;

(ii) Three cards consisting of three 7's of any suit paying at odds of 3 to 2;

(iii) A single blackjack combination consisting of a specific ace and face card designated in advance by the Nation and paying at odds of 2 to 1; or

(iv) Five cards totalling 21 paying at odds of 2 to 1.

(k) Splitting Pairs.

(1) Any two cards that are identical as to number value may be treated as a pair. Also, any two cards each having a value of 10 may be treated as pairs, such as a ten and jack, jack and queen, or queen and king.

(2) A player who receives two cards forming a pair or considered to be a pair on the initial round may, if the player chooses, separate the two cards and treat each

card as the first card dealt in two separate hands. This is called splitting pairs. When pairs are split, the player's original wager is placed on one of these cards and an equal amount must be wagered on the other.

(3) The player is then dealt one face-up card on the face-up card on his or her right, and he or she must play this hand out. If, in drawing to the first face-up card, he or she forms a pair again, the player may again split pairs, wagering an amount equal to his first card on this third hand. The Nation shall determine if the player may continue to split pairs after the first split as long as the maximum number does not exceed three splits for a total of four hands.

(4) When a player splits a pair of aces, he or she is only permitted to draw one card to each split ace, giving him or her two cards per hand.

(5) If a picture card or ten or ace is part of a split hand and the player makes a two-card count of 21, it is not a natural and the player is paid off at even money.

(6) A player may be permitted to double down on split pairs.

(7) If the dealer obtains blackjack after a player splits pairs, the Nation may permit the dealer to collect only the amount of the original wager of such player and not to collect the additional amount wagered in splitting pairs.

(1) The Double Down.

(1) A player, whose first two cards do not total 21, may elect to double his or her wager and draw one additional card only. This is known as a, "double down" or "down for double."

(2) A player, before calling "double down," must double his or her original wager. The player is then dealt a third and final card on his or her two face-up cards. The Nation may permit a player to double down with an amount less than the amount of the player's original wager.

(3) If the dealer obtains blackjack after a player doubles down, the Nation may permit the dealer to collect only the amount of the original wager of such player and not to collect the additional amount wagered in doubling down.

(m) Insurance Betting.

When the dealer's face-up card is an ace, players may

make an insurance bet against the dealer's possible natural 21. The dealer, before looking at his or her down card, inquires if any player wants insurance. A player who desires insurance places an amount up to half his or her present wager on his or her own hand, except that a player may bet an amount in excess of half the initial wager to the next unit that can be wagered in chips, when, because of the limitations of the value of chip denominations, half the amount of the initial wager cannot be bet. When the insurance wager is made, the dealer looks at his or her down card. If it is a 10-count, the dealer turns it face-up and announces a "natural." The insurance bettor is paid off at the rate of 2-to-1 for the amount of the insurance bet. If the dealer's down card is not a 10-count card, the player loses his or her insurance wager.

(n) Twenty-One Superbucks Betting.

(1) Prior to the start of any hand, players have the option of placing a Twenty-One Superbucks Progressive Jackpot (Progressive Jackpot) bet by depositing a token or cheque into the appropriate coin drop located on the layout. Players win all or part of the Progressive Jackpot with hands of:

- (i) Ace, Two, Three, Four and Five, suited, dealt in the first five cards,
- (ii) Two, Three, Four and Five, suited, dealt in the first four cards,
- (iii) Four, Five and Six suited, dealt in the first three cards,
- (iv) Ace and a Jack, suited, dealt in the first two cards,
- (v) Any Black Jack, suited, dealt in the first two cards,
- (vi) Any pair of Aces, Kings, Queens, Jacks or Tens dealt in the first two cards,
- (vii) Any Black Jack dealt in the first two cards.

Hands formed as a result of splitting pairs, as defined in (k) above, do not qualify for Progressive Jackpot payouts.

(2) Progressive Jackpot Payouts.

Regardless of the card count of the dealer's hand, a player who has placed a Progressive Jackpot bet, and has

a hand that qualifies for the Progressive Jackpot, will win the Progressive Jackpot amount appropriate to his or her hand, according to the following:

A-2-3-4-5	Suited	First five cards	100% of the jackpot
2-3-4-5	Suited	First four cards	10% of the jackpot
4-5-6	Suited	First three cards	500 to 1*
A-J	Suited	First two cards	50 to 1*
Any Blackjack	Suited	First two cards	10 to 1*
Any Pair A-K-Q-J-10		First two cards	3 to 1*
Any Blackjack		First two cards	2 to 1*

(*up to the table maximum payout)

If two or more players qualify for all or part of the Progressive Jackpot during the same hand, winners will share the jackpot prize as an aggregate.

(3) Irregularities.

(i) If any player is dealt an incorrect number of cards, this constitutes a dead hand for this player only.

(ii) If the dealer is dealt an incorrect number of cards this constitutes a dead hand for all hands at the table and the cards are reshuffled.

(o) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers at each table including the value of the tokens or cheques used in the Progressive Jackpot bet. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted on a sign at each table.

9. CARD WHEEL.

(a) Equipment.

A wheel of variable size. Around the rim of the wheels surface are sections, each of which shows the faces of three playing cards bearing different combinations of the cards nine through ace. The betting table or surface has a corresponding layout.

(b) The Play.

(1) A player places his or her wager on one or more betting spaces on the layout and the dealer spins the wheel. When the wheel stops, the section in which the indicator arm rests is the winning combination.

(2) If the player places his or her wager on the ace and the wheel stops at nine-ace-king, the payoff odds are 1 to 1 since the ace showed only once; if the wheel stops at ace-ace-ten, the payoff odds are 2 to 1 since the ace showed twice. This holds true for all the card faces, e.g., if the player places his wager on the king and the wheel stops on king-nine-ace, the payoff odds are 1 to 1. If it stops at king-king-king, the payoff odds are 3 to 1.

(c) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers at each table. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted on a sign at each table.

10. CHUCK-A-LUCK.

(a) Equipment.

- (1) A cage or chute.
- (2) Three dice.
- (3) A table layout bearing the numbers 1, 2, 3, 4, 5, 6, and spaces for field bets, over 10 bets, and under 11 bets.

(b) Play and Odds.

- (1) The dice are tumbled in the cage or chute. Players place their wagers on one or more of the spaces on the layout.
- (2) Chuck Numbers. Players may bet on the numbers 1, 2, 3, 4, 5, or 6. If a player's number appears on one die, the payoff odds are 1 to 1; if his or her number appears on two dice, the payoff odds are 2 to 1; and if all three bear his or her number, the payoff odds are 3 to 1.
- (3) Field Bets. Players may bet on any one roll that one of the following numbers comes up: 5, 6, 7, 8, 13, 14, 15, 16. If it does, the player receives even money (1 to 1). If 3, 4, 9, 10, 11, 12, 17, or 18 comes up, the player loses.
- (4) Over 10. Players may bet on any one roll that the total of the three dice is 11 or more. The payoff odds for this wager are 1 to 1. A player loses if the three dice total 10 or less or if a three-of-a-kind ("triple") is rolled.
- (5) Under 11. Players may bet on any roll that the total of the three dice is 10 or less. The payoff odds for this wager are 1 to 1. A player loses if the three dice total 11 or more or if a three-of-a-kind ("triple") is rolled.

(c) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers at each table. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted on a sign at each table.

11. COLOR WHEEL.

(a) Equipment.

A wheel of variable size. The rim of the wheel is divided into sections, each of which shows one color. The betting table or surface has a corresponding layout.

(b) The Play.

(1) A player places a wager on one or more colors on the layout, and the dealer spins the wheel. When the wheel stops, the section in which the indicator arm rests is the winning color.

(2) The payoff odds shall be conspicuously displayed on the layout.

(c) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers at each table. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted on a sign at each table.

12. CRAPS (DICE).

(a) Equipment.

(1) A table with an upright rail running around the table's outside edges, forming a rectangular enclosure. The rail serves as a backboard, and also helps to prevent the rolling dice from falling off the table.

(2) Two dice. The dealer has at least five dice in front of him or her, from which the shooter selects two dice to roll.

(b) Players.

(1) Any number can play, provided there is room at the table.

(2) The player throwing the dice is the shooter.

(c) The Play.

(1) The dice are thrown and the two numbers, added together, that face upward when the dice come to rest are the deciding numbers.

(2) The shooter's first roll is a come-out roll.

(3) If, on the come-out roll, the shooter throws a natural (7 or 11), it is a winning decision called a pass. If on the come-out roll the shooter throws a crap (2, 3 or 12), it is a losing decision called craps. If the shooter throws a 4, 5, 6, 8, 9, 10, that number becomes the shooter's point and he or she continues throwing until either:

(i) he or she throws the point again, which is a winning decision or pass; or

(ii) he or she throws a 7, which is a losing decision or a seven-out.

(4) When the shooter sevens-out on the point, the dice pass to the next player on his or her left, and it becomes that player's turn to shoot.

(5) The shooter may, if he or she likes, pass the dice to the next player on completion of a roll without waiting to seven-out on the point. The next player does not forfeit his or her turn to shoot after he or she sevens-out on the point of the previous player.

(6) Any player may, if he or she likes, refuse to shoot in his or her turn, and pass the dice to the next player.

(7) Players may call for a change of dice at any time; the change takes place immediately after the next roll.

(d) Placing Bets on the Layout.

(1) Pass Line. The player is betting with the dice, and the payoff is even money. The player wins on a "natural" 7 or 11 on the first roll and loses on "craps" 2, 3 or 12 on the first roll. Any other number on the first roll is the shooter's point. The player wins if the "point" is thrown again, unless a 7 is thrown first, in which case the player loses.

(i) Taking the Odds. Once a shooter's point has been established, the Nation operation may permit a player with a pass line bet to take odds in an amount up to five times his or her original wager that the shooter will make his or her point before a losing roll of seven:

<u>Shooter's Point</u>	<u>Payoff Odds</u>
4 or 10	2 to 1
5 or 9	3 to 2
6 or 8	6 to 5

(2) Don't Pass Line. Same as above, except that the player is betting against the dice and everything is reversed. The player loses on a "natural" 7 or 11 on the first roll and wins on a "craps" 2 or 3. When a pair of sixes (6-6) is rolled, it's a standoff (push) and nobody wins. The player wins if the shooter rolls 7 before making his or her "point". A don't pass wager may be removed or reduced during the play.

(i) Laying the Odds. Once a shooter's point has been established, the Nation operation may permit a player with a don't pass bet to lay the odds in an amount up to five times his or her original wager against the shooter and win if a 7 is rolled before the shooter's point:

<u>Shooter's Point</u>	<u>Payoff Odds</u>
4 or 10	1 to 2
5 or 9	2 to 3
6 or 8	5 to 6

(3) Place Bets. Players may make place bets on the numbers 4, 5, 6, 8, 9, or 10 before any roll of the dice. Each place bet wins when its corresponding number is rolled before a losing roll of 7. Place bets may be called "off" by the bettor prior to any roll and remain "off" until called "on" by the player prior to any roll:

<u>Place Bet Number</u>	<u>Payoff Odds</u>
4 or 10	9 to 5
5 or 9	7 to 5
6 or 8	7 to 6

(4) Come Bets. On layouts with appropriate betting spaces, players may make additional wagers after a shooter's point has been established. For come bets and don't come bets only, the next roll of the dice will be considered the first (come-out) roll. Come bets win on a roll of 7 or 11 and lose on a roll of 2, 3, or 12. If any other number is rolled by the shooter, this bet is removed from the come box by the dealer and moved into the numbered box corresponding with the shooter's previous roll, where it will remain until it wins when this designated come point is rolled again or loses on a roll of 7. Come bets may not be removed by the player once they have been moved into a point box.

- (i) Taking the Odds on Come Bets. Once a player's come bet has been moved into a point box by the dealer, the Nation operation may permit a player to take odds in an amount up to five times his or her original come bet that this come point will roll before a losing roll of 7:

<u>Come Point</u>	<u>Payoff Odds</u>
4 or 10	2 to 1
5 or 9	3 to 2
6 or 8	6 to 5

- (ii) The odds bet taken on the come bet may be removed prior to any roll.

(5) Don't Come Bets. Don't come bets win on a roll of 2 or 3, push on a pair of sixes (6-6) and lose on a 7 or 11. If any other number is rolled by the shooter, the wager is removed from the don't come box by the dealer and moved into a designated space behind the numbered box corresponding with the shooter's previous roll, where it will remain until it wins on a roll of 7 or loses if the designated point is rolled again. Don't come bets may be removed once they have been moved behind a numbered box.

- (i) Laying the Odds on Don't Come Bets. Once a player's don't come bet has been moved behind a point box by the dealer, the Nation operation may permit a player to lay odds in an amount up to five times his or her original don't come bet that a 7 will roll before the designated don't come point:

<u>Don't Come Point</u>	<u>Payoff Odds</u>
4 or 10	1 to 2
5 or 9	2 to 3

6 or 8

5 to 6

(ii) The lay odds bet on the don't come bet may be removed prior to any roll.

(6) Field. The player can bet on any one roll that one of the following numbers comes up: 2, 3, 4, 9, 10, 11 or 12. If it does, the player receives even money (1 to 1). If 5, 6, 7 or 8 comes up, the player loses. If the layout so indicates, the 2 and 12 pay 2 to 1 odds.

(7) Big Six or Eight (optional). The player wins even money (1 to 1) if 6 or 8 shows before a 7 is rolled.

(8) Any Seven. The player bets that the next roll is a 7 and collects 4 to 1.

(9) Any Craps. The player bets that the next roll is 2, 3 or 12 and collects 7 to 1.

(10) Hardways. The player wins if the exact combination bet shows up. On 3-3 or 4-4 the player receives 9 to 1; on 2-2 or 5-5 the player receives 7 to 1. The player loses if the same total number is rolled any other way except the hard way or if a 7 comes up. A hardways bet is "off" on a come out roll unless called "on" by the player prior to the roll.

(11) Craps Two. The player bets that the next roll is a craps two (1-1) and collects 30 to 1.

(12) Craps Three. The player bets that the next roll is a craps three (Ace-2) and collects 15 to 1.

(13) Eleven. The player bets that the next roll is an eleven (6-5) and collects 15 to 1.

(14) Craps Twelve. The player bets that the next roll is a craps twelve (6-6) and collects 30 to 1.

(15) Combinations. At the discretion of the Nation, different combinations of the above bets may be offered to players as additional wagers.

(e) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers at each table. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted on a sign at each table.

13. THE FRUIT WHEEL.(a) Equipment.

A wheel of variable size. Around the rim of the wheel's surface are sections, each of which shows three symbols bearing different combinations of five or six different types of fruit or similar objects. The betting table or surface has a corresponding layout.

(b) The Play.

(1) A player places the wager on one or more betting spaces on the layout and the dealer spins the wheel. When the wheel stops, the section in which the indicator arm rests is the winning combination.

(2) Payoff odds, which must be conspicuously displayed on the corresponding layout, may range from 1 to 1 through 40 to 1 at the discretion of the Nation.

(c) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers at each table. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted on a sign at each table.

14. HAZARD.(a) Equipment.

- (1) A cage or chute.
- (2) Three dice.
- (3) A table layout with wagers and odds.

(b) The Play.

The players place their wagers on the layout. The dealer then tumbles the dice in the cage or chute and when the dice comes to rest, the face-up numbers are the deciding three numbers.

(c) Bets and Odds.

- (1) Raffles. The player wagers that any specific three of a kind (three aces, three deuces, etc.) will appear on the dice. This wager is paid off at odds of 180 to 1. The maximum wager for this type of bet shall be determined by the Nation.
- (2) Any raffle. The player wagers that any three of a kind will appear. This wager is paid off at odds of 30 to 1.
- (3) Low bet. The player wagers that the total count on the dice will be 10 or below. The player loses if three of a kind appear. The odds on this wager are even or 1 to 1.
- (4) High bet. The player wagers that the total count on the dice will be 11 or more. The player loses if three of a kind appear. The odds on this wager are even or 1 to 1.
- (5) Odd and even bet. A wager that the total count on the dice will be an odd or even number. The odds on this wager are even or 1 to 1. The player loses if three of a kind appear.
- (6) Numbers bet. The player wagers that he or she can pick the exact winning number of the total count of the three dice, numbers 4 through 17. The odds on numbers bet are as follows: total count 4 pays 60 to 1; total count 5 pays 30 to 1; total count 6 pays 18 to 1; total count 7 pays 12 to 1; total count 8 pays 8 to 1; total count 9 pays 6 to 1; total count 10 pays 6 to 1; total count 11 pays 6 to 1; total count 12 pays 6 to 1; total count 13 pays 8 to 1; total count 14 pays 12 to 1; total count 15 pays 18 to 1; total count 16 pays 30 to 1; and total

count 17 pays 60 to 1.

(7) Chuck numbers. The player wagers on the numbers 1 through 6. The odds on this wager are even or 1 to 1 if it appears on one die, 2 to 1 if it shows on two dice, and 3 to 1 if it shows on three dice.

(c) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers at each table. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted on a sign at each table.

14a. SIC BO. (*Amended 9/18/97)

(a) Equipment.

- (1) A shaker or cage, unless an electronic selection device are utilized; and
- (2) Three dice, unless an electronic device is utilized;
- (3) A table layout posting wagers and odds;
- (4) Electronic selection device capable of selecting equivalent values for three dice on a random basis, unless dice and either a Sic Bo shaker or a Sic Bo cage are utilized; and
- (5) Electronic equipment display (optional).

(b) Options.

- (1) Upon opening of a Sic Bo table, the Nation gaming operation shall determine whether the game will be conducted with the use of an electronic selection device. If the electronic selection device is to be utilized, a statement declaring such shall be conspicuously posted on a sign at the Sic Bo table.
- (2) If an electronic selection device is not to be used, the Sic Bo game must be played utilizing three dice and either a Sic Bo shaker or a Sic Bo cage.

(c) The Play.

- (1) All wagers at Sic Bo shall be made by placing gaming chips or plaques on the appropriate areas of the Sic Bo layout. No oral wagers accompanied by cash may be accepted at the game of Sic Bo.
- (2) Each player shall be responsible for the correct positioning of his or her wagers on the Sic Bo layout regardless of whether the player is assisted by the dealer.
- (3) Prior to shaking the Sic Bo shaker, turning the Sic Bo cage or activating the electronic selection device the dealer will announce "No more bets" and make a visible hand motion indicating no more bets are to be accepted.
- (4) Once "No more bets" has been announced, the dealer shall either shake the Sic Bo shaker or turn the Sic Bo cage at least three times so as to cause a random mixture of the dice or, if applicable, activate the electronic selection device.

(5) The dealer shall then ascertain and announce the numeric value of each die (or equivalent from the electronic selection device) and shall, if utilized, enter the numeric value of each die into the electronic equipment display. If utilized, the electronic equipment display shall cause the winning combinations to be illuminated on the Sic Bo layout. An electronic selection device may automatically cause the winning combinations to be illuminated on the Sic Bo layout.

(6) After winning combinations have been ascertained and, if applicable, the winning combinations have been illuminated on the Sic Bo layout, the dealer shall first collect all losing wagers and then pay off all winning wagers at the odds currently being offered in accordance with subsection (d) of this section. The dice in the Sic Bo shaker or Sic Bo cage, or the winning combinations shall remain undisturbed or illuminated on the electronic selection device or electronic equipment display, as applicable, until all winning wagers have been paid.

(7) After all losing wagers have been collected and all winning wagers paid, the dealer shall, if applicable, clear the previously illuminated winning combinations from the electronic equipment display, the electronic selection device and/or the Sic Bo table layout, as applicable.

(d) Wagers and Bets.

The following shall constitute the definitions of permissible wagers at the game of Sic Bo:

(1) "Three of a kind" shall mean a wager which shall win if the same number is showing on all three dice and the player selected that number to appear on all three dice.

(2) "Two of a kind" shall mean a wager which shall win if the same number is showing on two of the three dice and the player selected that number to appear on two of the three dice.

(3) "Any three of a kind" shall mean a wager which shall win if the numeric value on all three dice is the same and the player wagered that any of the numbers 1 through 6 would appear on all of the three dice.

(4) "Total Value Bet" shall mean a wager which shall win if the numeric total of all three dice equal the total number wagered.

(5) "Two Dice Combination" shall mean a wager which shall win when the player wagered that a combination of two specific but different numeric values would appear on

at least two of the dice and the numeric values chosen are showing.

(6) "Small Bet" shall mean a wager which shall win if the numeric total of all three dice equals any one of the following totals: 4, 5, 6, 7, 8, 9 or 10 and shall lose if any other numeric total is shown or if three of a kind appears.

(7) "Big Bet" shall mean a wager which shall win if the numeric total of all three dice equals any one of the following totals: 11, 12, 13, 14, 15, 16 or 17 and shall lose if any other numeric total is shown or if three of a kind appears.

(8) "One of a kind" shall mean a wager which shall win if one or more of the three dice shows a numeric value equal to the number wagered.

(9) "Sic Bo Numbers" shall mean a wager where a player may bet on the numbers 1, 2, 3, 4, 5 or 6. If a player's number appears on one die, the payoff odds are 1 to 1; if his or her number appears on two dice, the payoff odds are 2 to 1; and if all three dice bear his or her number, the payoff odds are 3 to 1.

(e) Payout Odds.

(1) The Nation gaming operation shall not permit the payout odds for Sic Bo to be less than:

<u>Wager</u>	<u>Payout Odds</u>
Three of a kind	150 to 1
Two of a kind	8 to 1
Any three of a kind	24 to 1
Total value of 4	50 to 1
Total value of 5	18 to 1
Total value of 6	14 to 1
Total value of 7	12 to 1
Total value of 8	8 to 1
Total value of 9	6 to 1
Total value of 10	6 to 1
Total value of 11	6 to 1
Total value of 12	6 to 1
Total value of 13	8 to 1
Total value of 14	12 to 1
Total value of 15	14 to 1
Total value of 16	18 to 1
Total value of 17	50 to 1
Any two dice combination	5 to 1
Small Bet	1 to 1
Big Bet	1 to 1

Sic Bo Numbers	
One die	1 to 1
Two dice	2 to 1
Three dice	3 to 1

(2) Payout odds shall be conspicuously posted on a sign at each Sic Bo table and on each Sic Bo table layout.

(f) Minimum and Maximum Wagers.

The Nation gaming operation shall determine the minimum wagers and maximum wagers at each Sic Bo table. The amounts of the minimum wager and maximum wager shall be conspicuously posted on a sign at each table.

(e) Irregularities.

(1) If all three dice do not land flat on the bottom of the Sic Bo shaker or Sic Bo cage when the dealer has stopped shaking the Sic Bo shaker or turning the Sic Bo cage, the dealer shall call a "No roll" and make a visible hand motion indicating "No roll." All player wagers shall be promptly returned.

(2) If the electronic selection device malfunctions, the dealer shall call "No roll" and make a visible hand motion indicating "No roll." All player wagers shall be promptly returned.

(3) If the electronic selection device is utilized at a Sic Bo table and the electronic selection device malfunctions as to not select the three dice equivalents on the Sic Bo table layout, the dealer shall call "No roll" and make a visible hand motion indicating "No roll." All player wagers shall be promptly returned. All gaming at the Sic Bo table shall cease until the electronic selection device has been fixed or the dealer declares the electronic selection device is no longer to be utilized and commences play with dice and either a Sic Bo shaker or Sic Bo cage.

15. HORSE RACE GAME.(a) Equipment.

- (1) A horse race layout.
- (2) An electronic selection device.
- (3) An electronic dispensing device.

(b) Wagers.

Each race has five horses competing against each other. Players select two horses in a single race using a quinella form of betting. A player will win if the horses selected finish in the first two positions in either order (1-2 or 2-1). A player may wager from one (1) to twenty (20) dollars on any one (1) or more of the ten (10) possible winning combinations of horses. The maximum number of dollars that may be wagered by a player on any one race is two hundred (200) dollars.

(c) Payout Odds.

Before each race starts, the electronic selection device selects at random the odds for each of the ten (10) possible quinella wagers. The selection device will ensure a total payout to the winning patrons of eighty percent (80%) or higher of all wagers. From one (1) to twenty (20) dollars may be wagered on any possible winning combination. Any players having the winning combination are paid a total number of dollars computed by multiplying the number of dollars bet by the odds number appearing for the winning combination, e.g., 10 dollars wagered at 20:1 odds = 200 dollars won.

(d) The Play.

(1) This device is a horse race game with five (5) running horses. To win, players forecast the first and second horses, disregarding their finish order. The horses are numbered from inside the track to outside as 1, 2, 3, 4 and 5. Players can select from ten (10) possible winning combinations.

(2) The race track has an infield in the center and has ten player stations positioned around the outside of the track where a player may wager on a race. Each player station contains an electronic dispensing device which will accept player wagers and issue a paper receipt or ticket before each race begins. To increase player participation levels, additional player stations may be placed near the horse race game to permit other players to wager on a particular race. These additional stations

also will contain an electronic dispensing device which will accept player wagers and issue a paper receipt or ticket before each race begins.

(3) Each race involves five horses racing around the track. There are ten possible winning quinella combinations. On the interior walls surrounding the track will be found the ten possible winning combinations along with a digital display providing the odds for each combination.

(4) Players place their wagers into the electronic dispensing device and receive a paper receipt or ticket denoting their wager amount and payout odds.

(5) The races progress automatically in pre-established time sequences regardless of whether any wagers are made by the players or not. Since the game operates continuously, players do not activate a race from any of the player stations.

(6) As soon as the "Bet Now" description on the game panel is displayed, players are free to bet from one (1) to twenty (20) dollars on any one or more combinations of up to ten (10) quinella combinations of horses. Every press of the bet button bets one dollar up to a maximum of twenty (20) dollars on each combination.

(7) Once wagers are permitted to be made for a particular race, the electronic selection device begins an automatic time start which displays "Time Left to Bet" and runs for a predetermined time period which does not exceed two (2) minutes. Players may enter wagers while the "Time Left to Bet" sign is lit. All dollars accepted are confirmed by the issuance of a paper receipt or ticket before the race begins. Each electronic dispensing device will accept a maximum of two hundred (200) dollars; wagers entered after the 200th dollar are not accepted.

(8) When the "Bet Now" display turns off, the electronic dispensing device at each player station automatically stops accepting any more bets. When the timer sign which shows "Time Left to Bet" shows "0", the gates open and the race starts. It is impossible for a player to make a bet after the race starts or to extend or alter the time of the game or the intervals between races.

(9) All horses stop after crossing the finish line at which time the first and second finishers are decided and displayed by blinking the winning horse combination on the display board.

(10) Any players having the winning combination will

redeem their winning ticket with a cashier or attendant. The maximum payout is four thousand (4,000) dollars.

(e) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers for each game. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted.

16. HORSE RACE WHEEL.

(a) Equipment.

A wheel of variable size. The surface of the wheel is divided into sections and each section has a number corresponding to a pictorial horse or name of horse. The rim of each numbered section is divided into smaller numbered sections, which indicate the odds at which the winner is to be paid. The betting table or surface has a corresponding layout.

(b) The Play.

A player places his or her wager on one or more numbers on the layout and the dealer spins the wheel. When the wheel stops, the section in which the indicator arm rests indicates the winning number and the odds to be paid.

(c) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers at each table. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted on a sign at each table.

17. JOKER SEVEN.(a) Equipment.

- (1) A table with a Joker Seven betting layout.
- (2) One deck or 52 cards and 2 jokers.

(b) Players.

Any number of players who can fit around the table.

(c) The Play.

The cards are thoroughly shuffled and cut by the dealer. Bets are placed on the betting squares which represent the various combinations which can arise from any random hand of seven cards. Seven cards are dealt face up from the top of the deck and the winning combinations are called by the dealer. The dealer collects the losing wagers and pays the winners. All cards are shuffled and cut by the dealer after each hand.

(d) Color Bets.

Odds

4 or more red or 4 or more black cards	Even money
4 red cards or 4 black cards (exact)	2 to 1
5 red cards or 5 black cards (exact)	5 to 1
6 red cards or 6 black cards (exact)	15 to 1
7 red cards or 7 black cards (exact)	25 to 1

(e) Other Bets.

Odds

No pairs or two pairs	3 to 1
1 joker	3 to 1
2 jokers	20 to 1
Any specific pair-aces to kings	9 to 1
Prial (three of a kind)	12 to 1

(1) When a prial is dealt, the pair within the prial is paid at 9 to 1. Two jokers are considered one pair. Two jokers and another pair are considered two pairs. The joker has no color value. A joker bet loses if two jokers are dealt.

(2) When four of a kind is dealt, a bet on one pair is paid at 9 to 1 once, a bet on two pairs is paid at 3 to 1 once, and a bet on a prial is paid at 12 to 1.

(f) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers at each table. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted on a sign at each table.

18. KENO. (*Amended 7/14/94)

(a) Equipment.

- (1) A Keno board and light control panel.
- (2) An electronic selection device ("selection device"), utilizing a random number generator for selecting individual numbers or an electrically operated blower machine ("blower machine") containing 80 balls numbered 1 through 80.
- (3) Computer ticket issuing and recording devices, including the use of remote terminals connected to a central computer via a communications network.
- (4) Video monitors.
- (5) Keno tickets or player wagering cards.

(b) Keno Play.

- (1) Number Selection by the Player. To play Keno, each player selects numbers up to a maximum amount designated by the Nation on a specially-designed blank Keno ticket containing the printed numbers 1 through 80. In a "Quick Pick", the player requests that the numbers for his or her Keno ticket be selected randomly by the computer ticket issuing device. In a "Way Ticket" the player wagers on a combination of groups of numbers in various ways designated by the player. Each ticket also may be played a multiple of times, up to 1000 consecutive games, at the time of the initial ticket purchase.
- (2) After the player completes his or her number selection, the player's Keno ticket is presented to a Keno writer who will either manually or automatically (using a machine reader) enter the numbers selected and the amount wagered into the computer ticket device. The player will receive a ticket generated by such device which will serve as confirmation of his or her wager. It is the player's responsibility to verify the information contained on the ticket at the time of purchase. No ticket will be accepted for voidance after the player has left the selling location.
- (3) If a ticket must be voided, the voided information will be entered into the computer and the computer shall document and retain the appropriate information pertaining to the voided ticket. A "void slip" will then be issued, which must be attached to the returned ticket to serve as documentation of the voided transaction.
- (4) Once all tickets for a Keno game have been issued,

the game will be closed and a corresponding message will be displayed on the Keno board. Computer controls will prevent a ticket from being printed or voided after a game has been closed and the number selection process has begun.

(5) A player also may participate in a second Keno game, called Instant Keno, by depositing cash at the Keno cage. In Instant Keno, a deposit account is created in a central microprocessor and the player is issued a player wagering card ("the card") that can access the deposited funds through remote Instant Keno terminals.

(6) In Instant Keno, a winnings account with a zero balance is simultaneously established in the central microprocessor for the player. This separate winnings account is to be used to accumulate player winnings at the conclusion of each Instant Keno race played.

(7) Each remote Instant Keno terminal has a matrix screen with the numbers 1 to 80 on its face. In addition, the terminal has an opening for the player to insert his or her card and LCD panels to display the deposit balance, game number, wager, amount won, and winnings account balance.

(8) At a remote terminal, the player inserts his or her card, enters the amount of his wager and selects up to twenty-five numbers from the matrix by touching the numbers on the matrix.

(9) The microprocessor verifies that the player has sufficient funds in his or her deposit account for the amount of the wager, deducts the amount of the wager from the player's deposit account and records the player's number selection.

(10) All wagers accepted are displayed on the LCD panel at the player's remote terminal for confirmation of the wager.

(11) Activation of the Selection Device. At regular intervals, the Keno selection device or the blower machine is activated in order to randomly select the amount of numbers designated by the Nation from the pool of 80 numbers. The selection device or the blower machine shall be activated only by the gaming operation and not by any player.

(12) In Instant Keno, games progress automatically in pre-established time sequences regardless of whether or not any wagers are made by the players. Since Instant Keno games operate continuously, players cannot activate a game from any of the remote terminals.

(13) When each Instant Keno game begins, the central microprocessor randomly chooses up to twenty-five numbers from the population of eighty numbers and simultaneously displays these chosen numbers on the matrices of all of the remote terminals. Numbers matching the player's selected numbers are simultaneously highlighted on the matrices of all of the remote terminals.

(14) Determination of Winning Tickets or Matches. Winning tickets are determined by the correct matching of numbers previously selected by players with numbers randomly selected by the selection device or blower machine. Winning tickets shall be verified prior to payout by the appropriate Keno employee.

(15) In cases where a Keno number has been erroneously transmitted to or by the system, no payments will be made on the mistaken number but only on the number as officially drawn and on record at the Keno master station.

(16) If the Keno equipment fails to operate prior to the selection of the winning numbers or cannot function properly to complete the game, players will be refunded the amount wagered upon presentation of their tickets.

(17) In Instant Keno, the central microprocessor counts the number of matches after a game at each activated remote terminal, calculates the amount won (if any), and credits winnings to the player's separate winnings account in the central microprocessor.

(18) If the balance in the player's deposit account is reduced to zero and the player cannot place additional wagers, the player must return to the Keno cage in order to continue play. At the Keno cage, the player may

either transfer the balance in his or her winnings account to the player's deposit account or advance additional funds into his or her deposit account.

(19) When the player has finished playing Instant Keno, he or she returns the card to the Keno cage. The central microprocessor reports the amount remaining in the player's separate deposit account and the player's separate winnings account (if any). The sum of these funds are redeemed by the player.

(20) Distribution or Notice of Information About Keno. Brochures and other material designed to inform the general public as to the manner of participation in a game shall be distributed at each location where tickets are sold. A notice advising players to check their tickets for accuracy, and stating the consequence of a ticket being generated in error and not corrected before the start of a game, shall be posted at each location where tickets are sold. Such notice shall also advise that all winnings are paid according to the established procedures.

(c) Prizes.

Winners at Keno or Instant Keno may receive cash, prizes redeemable for cash, or merchandise, at the discretion of the Nation. If merchandise prizes are to be awarded, the specific type of prize or prizes which may be won must be disclosed to the player before the game begins.

(d) Payoff Odds.

Payoff odds shall be determined by the Nation, although a minimum of forty-five percent (45%) of the total gross sales will be returned as prizes to the winning player(s) and shall be conspicuously posted on a sign and printed in the brochures available at each location where tickets are sold.

(e) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers. The amounts of such wagers shall be conspicuously posted on a sign at each location where tickets are sold and in the brochures.

19. MERCHANDISE WHEELS.

(a) Equipment.

A wheel or wheels of variable size that have numbers, symbols or colors used to designate the winning wager and, where applicable, the type of merchandise to be awarded. The betting table or surface has a corresponding layout.

(b) Winning Wagers.

Only merchandise shall be awarded as prizes.

(c) Control Sheet.

Each merchandise wheel shall have an inventory control sheet which shall indicate the cost to the Nation of each item of merchandise awarded at the wheel.

(d) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers at each table. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted on a sign at each table.

20. MINI-BACCARAT. (*Amended 9/04/97)

(a) Equipment.

- (1) A table with a Mini-Baccarat layout.
- (2) At least six decks of cards with backs of the same color and design and two solid-colored cutting cards.
- (3) A dealing shoe.
- (4) An electromechanical card-shuffling device (optional).

(b) Value of Cards.

(1) The "Value" of the cards in each deck will be as follows:

- (i) Any card from 2 to 9 will have its face value;
- (ii) Any Ten, Jack, Queen or King will have a value of zero; and
- (iii) Any Ace will have a value of one.

(2) The "Point Count" of a hand will be a single digit number from 0 to 9 inclusive and will be determined by totaling the value of the cards in the hand. If the total of the cards in a hand is a two-digit number, the left digit of such number will be discarded as having no value and the right digit will constitute the Point Count of the hand. Examples of this rule are as follows:

- (i) A hand composed of an Ace, a 2 and a 4 has a Point Count of 7; and
- (ii) A hand composed of an Ace, a 2 and a 9 has a total of 12 but only a Point Count of 2 since the digit 1 in the number 12 is discarded.

(c) Types of Wagers.

(1) The following wagers will be permitted to be made by a participant at the game of Mini-Baccarat:

- (i) A wager on the "Banker's Hand" which will:
 1. Win if the "Banker's Hand" has a Point Count higher than that of the "Player's Hand";
 2. Lose if the "Banker's Hand" has a Point Count lower than that of the "Player's Hand"; and

3. Be void if the Point Counts of the "Banker's Hand" and the "Player's Hand" are equal.

(ii) A wager on the "Player's Hand" which will:

1. Win if the "Player's Hand" has Point Count higher than that of the "Banker's Hand";

2. Lose if the "Player's Hand" has a Point Count lower than that of the "Banker's Hand"; and

3. Be void if the Point Counts of the "Banker's Hand" and the "Players Hand" are equal.

(iii) A wager called a "Tie Bet" which will win if the Point Counts of the "Banker's Hand" and the "Player's Hand" are equal and will lose if such Point Counts are not equal.

(2) Unless otherwise approved by the Nation, the gaming operation will not accept any wagers at the game of Mini-Baccarat other than those specified in paragraph (1) of this section.

(3) All wagers at Mini-Baccarat will be made by placing gaming chips (including plaques) on the appropriate areas of the Mini-Baccarat layout except that verbal wagers accompanied by cash may be accepted provided they are confirmed by the dealer and gaming facility supervisor at the table, and such cash is expeditiously converted into gaming chips or plaques.

(4) No wager at Mini-Baccarat will be made, increased or withdrawn after the dealer has announced "No More Bets".

(5) Once the first card of any hand has been removed from the shoe by the dealer, no participant will handle, remove or alter any wagers that have been made until a decision has been rendered and implemented with respect to that wager.

(d) Payoffs.

(1) A winning wager made on the "Player's Hand" will be paid off by the gaming operation at odds of 1 to 1.

(2) A winning wager made on the "Banker's Hand" will be paid off by the gaming operation at odds of 1 to 1, except that the gaming operation will extract a charge (to be known as a "commission" or "vigorish") on the amount won at four percent (4%) or five percent (5%) of

such amount. Wagers will be accepted in \$5 increments only and therefore the vigorish will increase in \$.20 increments if the vigorish is 4% or in \$.25 increments if the vigorish is 5%. The gaming operation may collect the vigorish from a participant at the time the winning payoff is made or may defer it to a later time provided, however, that all outstanding vigorish will be collected prior to reshuffling the cards in a shoe and in no event will the collection of any vigorish be deferred beyond such point. The amount of any vigorish not collected at the time of the winning payout will be evidenced by the placing of coins or marker buttons (lammers) contained the amount of vigorish owed in a rectangular space in front of the dealer on the layout imprinted with the number of the participant owing such vigorish.

(i) The gaming operation will notify the appropriate personnel in writing twenty-four (24) hours in advance of any change in the vigorish percentage (four or five percentage).

(ii) The gaming operation will conspicuously post at the Mini-Baccarat table(s) the vigorish percentage in effect (four or five percentage).

(iii) When 4% vigorish is in effect the gaming operation will utilize \$.20 denomination marker buttons (lammers) and \$.25 denomination marker buttons when 5% vigorish is in effect.

(iv) Vigorish percentage will be the same for all Mini-Baccarat tables at all times. Any change to the vigorish percentage will be done uniformly for all Mini-Baccarat tables throughout the gaming operation; vigorish may differ, however, between Mini-Baccarat and Baccarat.

(3) A winning tie bet will be paid off by the gaming operation at odds of at least 8 to 1.

(e) The Shuffle.

(1) After receiving the six or more decks of cards at the table, the dealer calling the game will sort and inspect the cards and the floorperson assigned to the table will verify the inspection.

(2) Following the inspection of the cards by the dealer and the verification by the floorperson assigned to the table, the cards will be spread out face upwards on the table for visual inspection by the first participant or participants to arrive at the table. The cards will be spread out in horizontal rows by deck according to suit and in sequence within the suit.

(3) After the first participants are afforded an opportunity to visually inspect the cards, the cards will be turned face downward on the table, mixed thoroughly by a "washing" or "chemmy shuffle" of the cards and stacked.

(4) Immediately prior to the commencement of play and after each shoe of cards is completed, the dealer or electromechanical card-shuffling device will shuffle the cards so that they are randomly intermixed.

(5) After the cards have been reshuffled, the gaming operation may choose to have the dealer lace approximately one deck of cards so that they are evenly dispersed into the remaining stack. The dealer will then offer the stack of cards, with backs facing away from him or her, to the participant to be cut. The dealer will begin with the participant seated in the highest number position at the table and, working clockwise around the table, will offer the stack to each participant until a participant accepts the cut. In the event the participant seated in the highest number position does not cut the cards, the participant in the next clockwise position will have the option to cut. If no participant accepts the cut, the dealer may cut the cards.

(6) The cards will be cut by placing the cutting card in the stack at least 10 cards in from either end.

(7) Once the cutting card has been inserted into the stack, the dealer will take all cards in back of the cutting card and place them to the front of the stack. The dealer will then insert one cutting card in a position at least 14 cards in from the back of the stack. The stack of cards will then be inserted into the dealing shoe for commencement of play. Prior to the commencement of play, the dealer will remove the first card from the shoe and place it, and an additional amount of cards equal to the amount on the first card drawn, in the discard rack after all cards have been shown to the participants. For purposes of this paragraph, face cards and tens count as tens; Aces count as one.

(f) The Play.

(1) There will be two hands dealt in the game of Mini-Baccarat one of which will be designated the "Player's Hand" and the other designated the "Banker's Hand".

(2) At the commencement of each round of play, the dealer calling the game will announce "No More Bets".

(3) The dealer will deal four (4) cards from the shoe face down. The first and third cards dealt will be placed face down in the area on the layout designated for

the "Player's Hand". The second and fourth cards dealt will be placed face down under the right front corner of the dealing shoe until the "Player's Hand" is called, at which time the second and fourth cards shall be placed face up in the area on the layout designated for the "Banker's Hand".

(4) After the cards are dealt to each hand, the dealer will turn the "Player's Hand" face upwards and announce the Point Count of the "Player's Hand". The dealer will then turn the "Banker's Hand" face upwards and announce the Point Count of the "Banker's Hand".

(5) Following the announcement of the Point Counts of each hand, the dealer will determine whether to deal a third card to each hand.

(6) Any third card required to be dealt will first be dealt face upwards to the "Player's Hand" and then to the "Banker's Hand" by the dealer.

(7) In no event will more than one additional card be dealt to either hand.

(8) Whenever the cutting card appears during play, the cutting card will be removed and placed to the side and the hand will be completed. Upon completion of that hand, the dealer calling the game will announce "Last Hand". At the completion of one more hand, no more cards will be dealt until the reshuffle occurs.

(9) If the Point Count of either the "Player's Hand" or the "Banker's Hand" after the initial two cards are dealt to each is an 8 or 9 (which will be called a "natural"), no more cards will be dealt to either hand.

(10) If the Point Count of the "Banker's Hand" on the first two cards is 0 to 7 inclusive, the "Player's Hand" will draw (that is, take a third card) or stay (that is, not take a third card) in accordance with the requirements of Table 1 below.

Table 1

Player Having	Third Card Determination
0 to 5	Draws
6 to 9	Stays

(11) The "Banker's Hand" shall draw (that is, take a third card) or stay (that is, not take a third card) in accordance with the requirements of Table 2 below:

Table 2

Third Card Determination For Banker's Hand

Third Card Drawn By Players Hand											
Point Count of Banker's Hand	No Third Card Drawn	0	1	2	3	4	5	6	7	8	9
	0	Banker's Hand Draws									
1											
2											
3	D	D	D	D	D	D	D	D	D	S	D
4	D	S	S	D	D	D	D	D	D	S	S
5	D	S	S	S	S	D	D	D	D	S	S
6	S	S	S	S	S	S	S	D	D	S	S
7											
8		Banker's Hand Stays									
9											

(12) The first vertical column in Table 2 labeled "Point Count of Banker's Hand" will refer to the Point Count of the "Banker's Hand" after the first two cards have been dealt to it.

(13) The first horizontal column at the top of Table 2 labeled "Third Card Drawn by Player's Hand" will refer to the value of the third card drawn by the "Player's Hand" as distinguished from the Point Count of the "Player's Hand".

(14) The letter "D" used in Table 2 will mean that the "Banker's Hand" must draw a third card and the letter "S" used in Table 2 will mean that the "Banker's Hand" must stay (that is not draw a third card).

(15) The method of using Table 2 will be to find the Point Count of the "Banker's Hand" in the first vertical column and trace that horizontally across the table until it intersects the third card drawn by the "Player's Hand". The box at which such intersection takes place will show whether the "Banker's Hand" will draw a third card or stay. For example, if the Point Count of the "Banker's Hand" after two cards is 5 and the value of the third card drawn by the "Player's Hand" is 4, the table shows that the "Banker's Hand" will draw a third card.

(16) After each hand has received all the cards it is entitled to by these procedures, the dealer will announce the final Point Count of each hand indicating which hand has won the round. If the two hands have equal Point Counts, the dealer will announce "Tie Hand".

(17) After the result of the round is announced, the dealer responsible for the wagers on the table shall collect all losing wagers, either collect or mark up any vigorish or commission owed in accordance with these procedures, and pay all winning wagers.

(18) No participant or spectator will handle, remove or

alter any cards used to game at Mini-Baccarat and no dealer or other gaming facility employee will permit a participant or spectator to engage in such activity.

(g) Irregularities.

(1) A third card dealt to the "Player's Hand", when no third card is authorized under these procedures, will become the third card of the "Banker's Hand" if the "Banker's Hand" is obliged to draw by Table 2. If, in such circumstances, the "Banker's Hand" is required to stay, the card dealt in error will become the first card of the next hand unless it has been disclosed. In such case, the disclosed card and an additional number or cards equal to the amount on this card will be drawn face upwards from the shoe and placed in the discard rack.

(2) A card drawn in error from the shoe, if not disclosed, will be used as the first card of the next hand of play. If the card has been disclosed, a burn card procedure as described in paragraph (1) above, will be implemented.

(3) All cards found face upwards in the shoe will not be used in the game and will be placed in the discard rack, along with an additional amount of cards drawn face upwards, which agrees with the number on the card found face upwards in the shoe.

(4) If there are insufficient cards remaining in the shoe to complete a round of play, that round will be void and a new round will commence after the entire set of cards are reshuffled and placed in the shoe.

(h) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers at each table. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted on a sign at each table.

21. MONEY WHEEL.

(a) Equipment.

A wheel of variable size. Around the rim of the wheel's surface are sections. In some of these sections are new American green-backs or their facsimile in denominations of \$1, \$2, \$5, \$10, and/or \$20. Other sections display a picture of the American flag and a joker. The betting table or surface has a corresponding layout.

(b) The Play.

(1) A player places a wager on one or more numbers, flag or joker on the layout and the dealer spins the wheel. When the wheel stops, the section in which the indicator arm rests is the winning number or symbol.

(2) The number on the bills indicates the payoff odds to the players. If the wheel stops on the \$1 bill, the payoff odds are 1 to 1. A winning wager on the \$2 bill is paid off at 2 to 1, on the \$5 at 5 to 1, on the \$10 at 10 to 1, on the \$20 at 20 to 1. The payoff odds on the flag and joker, ranging from 25 to 1 through 40 to 1, shall be conspicuously displayed on the layout.

(c) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers at each table. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted on a sign at each table.

22. PAI GOW POKER. (*Amended 2/23/95)

(a) Definitions.

The following words and terms, when used in this submission, will have the following meanings unless the context clearly indicates otherwise:

- (1) "Copy Hand" will mean either a two card hand or a five card hand of a player which is identical in rank to the corresponding two card hand or five card hand of the dealer.
- (2) "Dealer" will mean the person who deals the cards and controls the bank. He or she never surrenders the deal or the bank.
- (3) "High Hand" will mean the five card hand which is formed from the seven cards dealt at a game of pai gow poker so as to rank equal to or higher than the two card low hand.
- (4) "Rank" or "Ranking" will mean the relative position of a card or group of cards.
- (5) "Second Highest" will mean the low hand which is the two card hand formed from the seven cards dealt at the game of pai gow poker so as to rank lower than the five card high hand.
- (6) "Set or Setting the Hands" will mean the process of forming a high hand and low hand from the seven cards dealt.
- (7) "Suit" will mean one of the four categories of cards, i.e., diamond, spade, club or heart.

(b) Equipment.

- (1) A table with a Pai Gow Poker layout.
- (2) One deck of cards with backs of the same color and design, one joker, and two additional solid-colored cutting cards.
- (3) Three dice and a pai gow poker shaker, or an electronic selection device.
- (4) An electromechanical card shuffling device (optional).

(c) Value of Cards.

- (1) The rank of the cards used in pai gow poker, in

order of highest to lowest rank, will be: ace, king, queen, jack, ten, nine, eight, seven, six, five, four, three, and two. Notwithstanding the foregoing, an ace may be used to complete a "straight flush" or a "straight" formed with a 2, 3, 4 and 5. Except as otherwise provided in paragraph (3) below, the joker will be used and ranked as an ace.

(2) The permissible poker hands at the game of pai gow poker, in order of highest to lowest rank, will be:

(i) "Five aces" is a high hand consisting of four aces and a joker;

(ii) "Royal flush" is a high hand consisting of an ace, king, queen, jack and ten of the same suit;

(iii) "Straight flush" is a high hand consisting of five cards of the same suit in consecutive ranking, with an ace, 2, 3, 4, and 5 being the highest ranking straight flush, and 6, 5, 4, 3, and 2 being the lowest ranking straight flush;

(iv) "Four-of-a-kind" is a high hand consisting of four cards of the same rank regardless of suit, with four aces being the highest ranking four-of-a-kind and four twos being the lowest ranking four-of-a-kind;

(v) "Full house" is a high hand consisting of a "three-of-a-kind" and a "pair," with three aces and two kings being the highest ranking full house and three two's and two three's being the lowest ranking full house;

(vi) "Flush" is a high hand consisting of five cards of the same suit. When comparing two flushes the provisions of paragraph (4) below shall be applied;

(vii) "Straight" is a high hand consisting of five cards of consecutive rank, regardless of suit, with an ace, king, queen, jack and ten being the highest ranking straight; an ace, 2, 3, 4 and 5 being the second highest ranking straight; and a 6, 5, 4, 3 and 2 being the lowest ranking straight;

(viii) "Three-of-a-kind" is a high hand containing three cards of the same rank regardless of suit, with three aces being the highest ranking three-of-a-kind and three two's being the lowest ranking three-of-a-kind;

(ix) "Two pairs" is a high hand containing two

"pairs," with two aces and two kings being the highest ranking two pair hand and two three's and two two's being the lowest ranking two pair hand; and

(x) "Pair" is either a high hand or a low hand consisting of two cards of the same rank, regardless of suit, with two aces being the highest ranking pair and two two's being the lowest ranking pair.

(3) For purposes of setting a hand, a joker can be used only as an ace, or to complete a "straight," a "flush," a "royal flush," or a "straight flush."

(4) When comparing two high hands or two low hands which are of identical poker hand rank pursuant to the provisions of this section, or which contain none of the poker hands authorized herein, the hand which contains the highest ranking card as provided in paragraph (1) hereof which is not contained in the other hand will be considered the higher ranking card. If the two hands are of identical rank after the application of this subsection, the hands will be considered a copy hand.

(d) The Shuffle.

(1) After receiving one deck of cards at the table, the dealer will sort and inspect the cards and the floorperson assigned to the table will verify the inspection. If the deck of cards used by the gaming operation contains two jokers, the dealer and a gaming facility supervisor will ensure that only one joker is utilized.

(2) Following the inspection of the cards by the dealer and the verification by the floorperson assigned to the table, the cards will be spread out face up on the table for visual inspection by the first player to arrive at the table. The cards shall be spread out according to suit and in sequence and will include one joker.

(3) After the first player is afforded an opportunity to visually inspect the cards, the cards will be turned face down on the table, mixed thoroughly by a "washing" or "chemmy shuffle" of the cards and stacked or the cards will be shuffled and stacked by the electromechanical card shuffling device.

(4) All cards opened for use on a pai gow poker table will be changed approximately every hour while the game is in action.

(5) Immediately prior to commencement of play and after

each round of play has been completed, the dealer or electromechanical card shuffling device will shuffle the cards so that they are randomly intermixed.

(6) After the cards have been shuffled, the dealer will offer the stack of cards to be cut, with the backs face up to the player at the farthest position to the right of the dealer. If the game is just beginning, the dealer will offer the stack of cards to be cut to the first player to the table. If no player accepts the cut, the dealer will cut the cards.

(7) The player or dealer inserting the cutting card will place the cutting card in the stack at least 10 cards from either end. Once the cutting card has been inserted, the dealer will take all the cards, including the cutting card, and place them on the bottom of the stack. The gaming operation may, at its discretion, use a second cutting card to be inserted in a position exactly four cards in from the back of the stack in order to assist in verifying the number of cards dealt to each player.

(8) If there is no gaming activity at the pai gow poker table, the cards will be spread out on the table face up. After the first player is afforded an opportunity to visually inspect the cards, the shuffling procedure will be completed.

(e) Wagers.

(1) All wagers at pai gow poker will be made by placing gaming chips or plaques on the appropriate betting area of the pai gow poker layout.

(2) Only players who are seated at the pai gow poker table may place a wager at the game. Once a player has placed a wager and received cards, that player must remain seated until completion of the round of play.

(3) All wagers at pai gow poker will be placed prior to the dealer announcing "No More Bets." No wager at pai gow poker shall be made, increased or withdrawn after the dealer has announced "No More Bets."

(4) The gaming operation may, in its discretion, permit a player to wager on no more than two betting areas at a pai gow poker table, which areas must be adjacent to each other.

(5) If the gaming operation permits a player to wager on two adjacent betting areas, the cards dealt to each betting area will be played separately. If two wagers are not equal, the player will be required to rank and

set the hand with the larger wager before ranking and setting the other hand. If the amounts wagered are equal, each hand will be played separately in a counterclockwise rotation with the first hand being ranked and set before the player proceeds to rank and set the second hand. Once the hand has been ranked and set and placed face down on the appropriate area of the layout, the hand may not be changed.

(f) The Play.

(1) The dealer will shuffle the cards according to the procedures defined in subsection (d).

(2) The cards will be dealt one at a time in front of the money tray from the dealer's left to right and back again. For example: 1, 2, 3, 4, 5, 6, 7, 7, 6, 5, 4, 3, 2, 1, until each of seven hands contains seven cards. There will be four cards plus a cut card left over. These four cards will be fanned out face down over the money tray, then placed into the discard rack.

(3) The hand to the far left of the dealer is pushed up about an inch and a half to show that it is the first hand to be dealt. The hand to the far right of the dealer is turned 90 degrees to designate the last hand out. When an electromechanical card shuffling device is used, subsection (3) shall not apply.

(4) The dealer will then call "No More Bets" prior to shaking the Pai Gow Poker shaker or activating the electronic selection device. If dice are used the dealer will shake the dice at least three times to ensure a random mixture of the dice. The dealer will then remove the lid covering the Pai Gow Poker shaker, empty the shaker, total the dice and announce the total. The total of the dice will determine which player receives the first hand.

(5) To determine the starting position for dealing the cards, the dealer will count, counter-clockwise around the table with the position of the dealer considered number one and continuing around the table counting each betting circle regardless of whether or not there is a wager at that position, until the count matches the total of the three dice or the number displayed on the electronic selection device. Examples are as follows:

- (i) If dice are used, and the three dice total 8, the dealer would receive the first card. The dice will total a number between 3 and 18.
- (ii) If an electronic selection device is used, and it displays the number 6, the sixth position

would receive the first card. The electronic selection device will display a number between 1 and 7.

(6) If an electronic selection device is used, the dealer will activate the device to determine the starting position for dealing the hands. When an electronic selection device is used, subsection (4) shall not apply.

(7) Nothing in this section shall preclude the Nation gaming operation from using an additional cutting card to designate the position to which the first hand will be delivered.

(8) Once seven cards have been pushed to each position, including the dealer, and any cards with no wagers have been collected, the dealer will place the cover on the pai gow poker shaker and shake the shaker once. The pai gow poker shaker will then be placed to the right of the dealer.

(9) After the dealing of the cards has been completed, each player will set his or her hands by arranging the cards into a high hand and a low hand. When setting the two hands, the five card high hand must be equal to or higher in rank than the two card low hand. For example, if the two card hand contains a pair of sevens, the five card hand must contain at least a pair of sevens and the three remaining cards.

(10) Each player at the table will be responsible for setting his or her own hands and no other person except for the dealer may touch the cards of that player. Each player will be required to keep the seven cards in full view of the dealer at all times. Once each player has set a high and low hand and placed the two hands face down on the appropriate area of the layout, the player will not touch the cards again.

(11) After all players have set their hands and placed the cards on the table, the seven cards of the dealer will be turned over and the dealer will set his or her hands by arranging the cards into a high and low hand. The dealer will then place the two hands face up on the appropriate area of the layout.

(12) A player may announce that he or she wishes to surrender his or her wager prior to the dealer exposing either of the two hands of that player pursuant to paragraph (12) below. Once the player has announced his or her intention to surrender, the dealer will:

- (i) Immediately collect the wager from that player; and
 - (ii) Collect the seven cards dealt to that player without exposing the cards to anyone at the table. The dealer will verify that seven cards were collected by counting them face down on the layout prior to placing them in the discard rack.
- (13) Once the dealer has set a high and low hand, the dealer will expose both hands of each player, starting from the right and proceeding counterclockwise around the table. The dealer will compare the high and low hand of each player to the high and low hand of the dealer and will announce if the wager of that player will win, lose or be considered a tie ("push").
- (14) All losing wagers will be immediately collected by the dealer and put in the table inventory container. All losing hands also will be collected. A wager made by a player will lose if:
- (i) The high hand of the player is lower in rank than the high hand of the dealer and the low hand of the player is lower in rank than the low hand of the dealer;
 - (ii) The high hand of the player is identical in rank to the high hand of the dealer or the low hand of the player is identical in rank to the low hand of the dealer (a "copy hand") and the other hand of the player is identical in rank or lower in rank than the other hand of the dealer;
 - (iii) The high hand of the player was not set so as to rank equal to or higher than the low hand of that player; or
 - (iv) The two hands of the player were not otherwise set correctly in accordance with the rules of the game (for example, a player forms a three card low hand and a four card high hand).
- (15) If a wager is a push, the dealer will not collect or pay the wager, but will immediately collect the cards of that player. A wager made by a player will be a push if:
- (i) The high hand of the player is higher in rank than the high hand of the dealer, but the low hand of the player is identical in rank to the low hand of the dealer (copy hand) or lower in rank than the low hand of the dealer; or

(ii) The high hand of the player is identical in rank to the high hand of the dealer (copy hand) or lower in rank than the high hand of the dealer, but the low hand of the player is higher in rank than the low hand of the dealer.

(16) All winning hands will remain face up on the layout. Winning wagers will be paid after all hands have been exposed. The dealer will pay winning wagers beginning with the player farthest to the right of the dealer and continuing counterclockwise around the table. A wager made by the player will win if the high hand of the player is higher in rank than the high hand of the dealer and the low hand of the player is higher in rank than the low hand of the dealer.

(17) A winning pai gow poker wager will be paid off by the gaming operation at odds of 1 to 1, except that the gaming operation will extract a commission known as "vigorish" from the winning player in an amount equal to five percent of the amount won; provided, however, that when collecting the vigorish, the gaming operation may round off the vigorish to twenty-five cents or the next highest multiple of twenty-five cents. The gaming operation will collect the vigorish from a player at the time the winning payout is made. After a winning wager has been paid and the vigorish collected, the dealer will then collect the cards from that player.

(g) Irregularities...

(1) If the dealer uncovers the pai gow poker shaker and all three dice do not land flat on the bottom of the shaker the dealer will call a "No Roll" and re-shake the dice.

(2) If the dealer uncovers the pai gow poker shaker and a die or dice fall out of the shaker, the dealer will call a "No Roll" and re-shake the dice.

(3) If the dealer incorrectly totals the dice and deals the first card to the wrong position, all hands will be called dead and the dealer will reshuffle the cards.

(4) If the dealer exposes any of the cards dealt to a player, the player has the option of voiding the hand. Without looking at the unexposed cards, the player will make the decision either to play out the hand or to void the hand.

(5) If a card or cards in the hand of the dealer is exposed, all hands will be void and the cards will be reshuffled.

(6) A card found turned face up in the deck will not be used in the game and will be placed in the discard rack. If more than one card is found turned face up in the deck, all hands will be void and the cards will be reshuffled.

(7) A card drawn in error without its face being exposed will be used as though it was the next card from the deck.

(8) If any player or the dealer is dealt an incorrect number of cards, all hands will be void and the cards reshuffled.

(h) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers at each table. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted on a sign at each table.

23. RED DOG/ACEY-DUCEY. (*Amended 9/04/97)

(a) Equipment.

- (1) A table with a Red Dog or Acey-Ducey layout.
- (2) One to eight decks of cards with backs of the same color and design and two solid-colored cutting cards.
- (3) A dealing shoe.
- (4) An electromechanical card-shuffling device (optional).

(b) Value of Cards.

- (1) Any card from 2 to 10 will have its face value;
- (2) Any Jack will have a value of eleven;
- (3) Any Queen will have a value of twelve;
- (4) Any King will have a value of thirteen; and
- (5) Any Ace will have a value of fourteen.

(c) The Shuffle.

- (1) After receiving the one to eight decks of cards at the table, the dealer will sort and inspect the cards and the floor person assigned to the table will verify the inspection.
- (2) Following the inspection of the cards by the dealer and the verification by the floor person assigned to the

table, the cards will be spread out face upwards on the table for visual inspection by the first participant or participants to arrive at the table. The cards will be spread out by deck according to suit and in sequence within the suit.

(3) After the first participant or participants are afforded an opportunity to visually inspect the cards, the cards will be turned face downward on the table, mixed thoroughly by a "washing" or "chemmy shuffle" of the cards and stacked.

(4) Immediately prior to commencement of play and after each shoe of cards is completed, the dealer or the electromechanical card-shuffling device will shuffle the cards so that they are randomly intermixed.

(5) After the cards have been shuffled, the dealer will offer the stacks of cards, with backs facing away from him or her, to the players to be cut.

(6) The player designated by paragraph (8) of this section will cut the cards by placing the cutting card in the stack at least 10 cards in from either end.

(7) Once the cutting card has been inserted by the player the dealer will take all cards in front of the cutting card and place them on the back of the stack after which the dealer will insert the cutting card in a position approximately one-quarter of the way in from the back of the stack. The stack of cards will then be inserted into the dealing shoe for commencement of play.

(8) The player to cut the cards will be the player at the farthest point to the right of the dealer unless the game is just beginning in which case it will be the first player to the table.

(9) If the player designated in paragraph (8) of this section refuses the cut, the cards will be offered to each other player moving counter-clockwise around the table until a player accepts the cut. If no player accepts the cut, the dealer will cut the cards.

(d) The Play.

(1) All cards used to play at Red Dog will be dealt from a dealing shoe specifically designed for such a purpose and located on the table to the left of the dealer.

(2) Each dealer will remove cards from the shoe with his or her left hand, turn them face upwards, and then place them on the appropriate area of the layout with his or her right hand.

(3) After each full set of cards is placed in the shoe, the dealer will remove the first card therefrom face downwards and place it in the discard rack which will be located on the table immediately in front of or to the right of the dealer. Each new dealer who comes to the table will also burn one card as described herein before the new dealer deals any cards to the players. The burn card will be disclosed if requested by the player.

(4) For each round of play, the dealer will place the first card, face upwards, on the box farthest to his left. The dealer will then place the second card, face upwards, on the box farthest to his or her right.

(5) If the initial two cards dealt have values that are consecutive, the dealer will announce "The cards are consecutive--Tie Hand" and the round of play will be concluded.

(6) If the initial two cards dealt are a pair, the dealer will announce "We have a Pair" -- and will immediately draw a third card and place it face up in the middle box.

(i) If the third card dealt makes a 3-of-a-kind, the players will win and be paid.

(ii) If the third card dealt does not make a 3-of-a-kind, the dealer will announce "No 3-of-a-kind--Tie Hand" and all wagers will be voided.

(7) Whenever the initial two cards dealt are neither consecutive nor a pair, the dealer will announce the spread and will place a marker on the corresponding spread on the layout. Prior to dealing a third card, the dealer will announce "Raises Closed".

(8) After all raise wagers have been placed, the dealer will draw a third card, place it face upwards on the box between the initial two cards and announce the value of the third card. At this time, the dealer will collect all wagers or pay all wagers.

(9) At the conclusion of a round of play, all cards on the layout will be picked up by the dealer and placed in the discard rack.

(10) Whenever the cutting card is reached in the deal of the cards, the dealer will continue dealing the cards until that round of play is completed after which he or she will reshuffle the cards.

(e) Wagers.

(1) Except as otherwise provided in this section, wagers must be made prior to the first card being dealt for each round of play.

(2) All wagers at Red Dog will be made by placing gaming chips on the appropriate area of the Red Dog layout except that verbal wagers accompanied by cash may be accepted provided they are confirmed by the dealer and gaming facility supervisor at the table, and such cash is expeditiously converted into gaming chips in accordance with gaming facility procedures governing the acceptance and conversion of such instruments. The cash received from a verbal wager will not, under any circumstances, be returned to a player.

(3) Once the first card of each round has been removed from the shoe by the dealer, no participant will handle, remove or alter any wagers that have been made until a decision has been rendered and implemented with respect to that wager.

(4) No player will be permitted to wager on more than one betting area.

(f) Payoffs.

(1) All wagers at Red Dog will be made by placing gaming chips on the appropriate area of the Red Dog layout. The "spread" for each round of play will be a number from 1 to 11 inclusive and will be determined by the number of cards whose value can fall between the values of the initial two cards dealt from the shoe. An example of this rule is as follows: If the initial two cards dealt are a 4 and a 7, then the spread will be 2 (i.e., two cards, a 5 and 6 have a value that falls between 4 and 7).

(2) The player will win if:

(i) The value of the third card dealt from the shoe is between the values of the first and second cards dealt from the shoe; or

(ii) The three cards dealt from the shoe all have the same value. This will be known as a "3-of-a-kind" and will be paid at odds of 11 to 1.

(3) Provided the initial two cards dealt are not a pair, a player will lose when the value of the third card dealt from the shoe is not between the values of the first and second cards dealt from the shoe. A third card which has the same value as either the first or second card is not deemed to be between the values of the first and second cards.

(4) A wager made in accordance with this section will be voided whenever:

- (i) There is no spread (i.e. the values of the first two cards are consecutive); or
- (ii) The initial two cards dealt are a pair and the third card dealt does not make 3-of-a-kind.

(g) Raise Wagers.

- (1) Provided there is a spread after the initial two cards have been dealt, a player will have the option to make a raise wager in support of his or her original wager by placing on the designated area of the layout an amount not in excess of the player's original wager.
- (2) All raise wagers will be placed immediately after the first two cards have been dealt and prior to the third card being dealt.
- (3) All raise wagers must be placed prior to the dealer announcing "Raises Closed". No raise wagers shall be made, increased or withdrawn after the dealer has announced "Raises Closed".
- (4) All winning raise wagers will be paid at the same odds as the original wager.

(h) Irregularities.

- (1) A card found turned face upwards in the shoe will not be used in the game and will be placed in the discard rack.
- (2) A card drawn in error without its face being exposed will be used as though it were the next card from the shoe.
- (3) If a third card is drawn and exposed to the players prior to the dealer announcing "raises closed" the card will be burned and the players will be given the option of playing out the hand or calling the hand dead. Prior to dealing another third card the dealer will return the original wager and any raise wager to each player who has chosen to call the hand dead.

(i) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers at each table. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted on a sign at each table.

24. ROULETTE. (*Amended 10/30/98)(a) Equipment.

(1) A standard table has a betting layout, a roulette wheel and roulette balls.

(2) Wagers. All wagers at the roulette games shall be made with chips or non-value roulette chips. The color of the non-value roulette chip indicates the player.

(3) Roulette wheels. Roulette shall be played on a table having a roulette wheel of not less than thirty (30) inches in diameter at one end of the table and a corresponding roulette layout imprinted on the opposite end of the table.

Each roulette wheel shall be of a single zero variety or a double zero variety as described below:

(i) Each single zero roulette wheel shall have 37 equally spaced compartments around the wheel with one marked zero and colored green and the others marked 1 to 36 and colored alternately red and black; and

(ii) Each double zero roulette wheel shall have 38 equally spaced compartments around the wheel with one marked zero and colored green, one marked double-zero (00) and colored green, and the others marked 1 to 36 and colored alternately red and black.

(4) In the instance of a table offering fixed or progressive jackpot wagers, such table shall also be equipped with the following:

(i) For fixed jackpot games: a secondary wagering layout which shall be a reduced size replica of the conventional number betting area;

(ii) For progressive jackpot games: a(n)

1. bet sensor field which shall be a reduced size replica of the conventional number betting area. Each single number field contains an LED which indicates game status. A green LED indicates that the sensor is ready to accept wagers, a red LED indicates that a wager has been accepted for that number, and a flashing LED indicates that wagers have been situated on the winning number and with the next spin a jackpot may be won;

2. table terminal on which the dealer shall accept progressive. This information is used, in part, to determine how incremental increases in the progressive jackpot amount;

3. progressive jackpot display which shall indicate the current progressive jackpot value; and

4. optical roulette reader which shall read the roulette winning number and transmit it to the table terminal and to the roulette display.

A roulette table may offer either fixed or progressive jackpot wagering, but may not offer both types of jackpot wagering at the same time.

(b) Roulette Personnel and Their Duties.

(1) A roulette table with a single or double layout is usually worked by two persons. The person who spins the wheel and deals the game is called the dealer. His or her assistant is called a checker or check racker.

(2) Dealer. The dealer is in charge of the conduct of the game. His or her main duties are: spinning the wheel, throwing the roulette ball, announcing winners, collecting losing wagers, paying off winning wagers, and collecting, entering or placing jackpot wagers.

(3) Checker or Check Racker. The checker or check racker separates and stacks the losing wagers that have been collected or swept from the layout by the dealer. He or she helps the dealer pay off winning wagers.

(c) The Play.

(1) The players begin making their wagers by placing chips on the appropriate spaces of the conventional layout. After making a wager on the conventional layout, should the table be so equipped, a patron makes a jackpot wager by placing a wager on a single-number or straight-up bet on the secondary wagering area. For a progressive jackpot wager to be valid, the dealer must accept such wager at the table terminal. No jackpot wagers may be accepted after the dealer verbally and physically indicates no more will be accepted. The dealer starts the wheel spinning in a clockwise or counterclockwise direction, then flips the ball onto the bowl's back track so that it travels in the opposite direction of the wheel. Players may continue placing wagers, other than jackpot wagers, while wheel and ball are in motion until

the dealer calls: "No more wagers." He or she does this as the ball slows down and is about to drop off the back track. Wagers placed on the layout after this announcement are not valid and must be returned to the player or players.

(2) When the ball falls and comes to rest between any two partitions of the wheel, it marks the winning number, a 0 or 00, the winning color, and any other permitted bet that pertains to a winning number or symbol. The dealer immediately announces the winning number and its color, and he or she places a marker on the corresponding number on the layout. The dealer also places a similar marker on the secondary wagering layout. He or she then collects all losing wagers from both layouts, not disturbing the wagers resting on winning spaces, and except in the case of winning jackpot wagers, pays off the winner or winners. The symbols 0 and 00 win for the Nation gaming operation all bets except those placed on 0 and 00.

(3) After collecting and paying all winning wagers, the dealer removes the marker from the conventional layout but leaves the marker on the secondary wagering layout through the next spin. This number may not be selected until a different winning number being rolled breaks the order of succession or the round is completed by the same winning number coming up two additional times in succession.

(d) Inside Bets.

(1) Single-number bet or straight-up bet. The player places his or her wager squarely on one number on the layout, making certain that the wager does not touch any of the lines enclosing the number. This indicates that the player is betting that number to win. Payoff odds are 35 to 1.

(2) The symbols 0 or 00. These can be played the same as any straight or single-number bet by placing the wager on either 0 or 00. Payoff odds are 35 to 1.

(3) Two-number bet or split bet. The player places his or her wager directly on any line separating any two numbers. Any wager placed on the line separating the second Dozen betting space from the 3rd Dozen betting space shall be the same as a wager placed on the line separating the 0 from the 00. If the winning number is one of the two wagered on, the player wins. Payoff odds are 17 to 1.

(4) Three-number bet or street bet. The player places his or her wager on the outside line of the layout. This indicates that he or she is betting the three numbers

opposite the wager, going across the layout (street). If the winning number is one of these three, the player wins. Payoff odds are 11 to 1.

(5) Four-number bet, square bet, quarter bet or corner bet. The player places his or her wager on the intersection of the lines between any four numbers. If any one of these four numbers wins, the player collects. Payoff odds are 8 to 1.

(6) Five-number bet or line bet. The player places his or her wager on the line separating the 1,2,3 from the 0 and 00 spaces at a corner intersection. This indicates that the player is betting that one of the numbers 1, 2 or 3, or 0 or 00 will win. Payoff odds are 6 to 1.

(7) Six-number bet or line bet. The player places his or her wager on the intersection of the side line and a line between two streets. If any of these six numbers wins, the player collects. Payoff odds are 5 to 1.

(e) Outside Bets.

(1) Twelve-number bet or column bet. The player places his or her wager on one of the three blank spaces at the bottom of the layout (some layouts have three squares marked 1st, 2nd, 3rd). This indicates that the player is betting the 12 vertical numbers above the space wagered on. Payoff odds are 2 to 1.

(2) Dozens or twelve-number bet. The player places his or her wager on one of the spaces of the layout marked 1st 12, 2nd 12 or 3rd 12. The 1st 12 indicates that the player is betting on the numbers 1 to 12 inclusive; the 2nd 12, the numbers 13 to 24 inclusive; and the 3rd 12, the numbers 25 to 36 inclusive. Payoff odds are 2 to 1.

(3) Low-number bet (1 to 18). The player places his or her wager on the layout space marked 1 to 18, which indicates that the player is betting on the numbers 1 to 18 inclusive. The payoff odds are even money.

(4) High-number bet (19 to 36). The player places his or her wager on the layout space marked 19 to 36, which indicates that the player is betting on the numbers 19 to 36 inclusive. The payoff odds are even money.

(5) Black color bet. The player places his or her wager on a space of the layout marked Black. (Some layouts have a large diamond-shaped design instead of the word Black.) The player is betting that the winning color will be black. The payoff odds are even money.

(6) Red color bet. The player places his or her wager on the space of the layout marked Red, or the red diamond, and is betting that the winning color will be red. The payoff odds are even money.

(7) Odd-number bet. The player places his or her wager on the space of the layout marked odd. The player is betting that the winning number will be an odd number. The payoff odds are even money.

(8) Even-number bet. The player places his or her wager on the space of the layout marked even. The player is betting that the winning number will be even. The payoff odds are even money.

(f) Progressive or Fixed Jackpot Wagers

(1) To qualify to place a progressive or a fixed jackpot wager a patron must first have made an inside bet or outside bet as such terms are defined in this section.

(2) Fixed Jackpot Wager.

(i) The player may participate by placing a single number bet or straight-up bet on a number on the secondary wagering layout.

(ii) Should the number wagered upon win, that number may not be selected by any other player for wager during the next spin. The player selecting the winning number wins a first level fixed jackpot which shall be paid at not less than 1 to 1 odds.

(iii) Should the number wagered upon win for a second consecutive time the player wins a second level fixed jackpot amount, which shall not be paid at less than 250 to 1 odds, and a change to win the third level fixed jackpot amount on the next spin. The number upon which the marker rests may not be selected by any other player for wager during the next spin. Should two or more players who have selected the same number win for a second consecutive time each winner shall be paid at not less than 250 to 1 odds for their respective wagers.

(iv) Should the number wagered upon win for a third consecutive time the player wins the third level fixed jackpot amount which shall not be paid at less than 10,000 to 1 odds. Should two or more players who have selected the same number win for a third consecutive time the players shall both be paid at not less than 10,000 to 1 odds for their respective wagers.

(v) When a number wagered upon wins for a third consecutive time all players that have a wager on the secondary wagering area at that time may receive a bonus award. The Nation gaming operation shall individually notify, in writing, both the Commission and the Board of the amount of such bonus award no less than five (5) days prior to permitting such an award of a bonus award and thereafter may change the amount of such bonus award upon five (5) days written notice to both the Commission and the Board.

(3) Progressive Jackpot Wager.

(i) The player may participate by placing a single-number bet or straight-up bet on a number on the secondary wagering layout. This wager must be accepted at the table terminal to be valid.

(ii) Should the number wagered upon win, that number may not be selected by any other player for wager during the next spin. The player selecting the winning number wins a first level fixed jackpot which shall be paid at not less than 1 to 1 odds.

(iii) Should the number wagered upon win for a second consecutive time the player wins a second level fixed jackpot amount, which shall not be paid at less than 250 to 1 odds, and a chance to win the jackpot amount on the next spin. The number upon which the marker rests may not be selected by any other player for wager during the next spin. Should two or more players who have selected the same number win for a second consecutive time each winner shall be paid at not less than 250 to 1 odds for their respective wagers.

(iv) Should the number wagered upon win for a third consecutive time the player wins the jackpot amount which shall not be paid at less than one hundred percent of the progressive jackpot as reflected on the progressive meter at the time of the third consecutive win. Should two or more players who have selected the same number win for a third consecutive time the players shall share in the progressive jackpot equally.

(v) When a number wagered upon wins for a third consecutive time all players that have a wager on the secondary wagering area at that time may receive a bonus award. The Nation gaming operation shall individually notify, in writing, both the Commission and the Board of the amount of such bonus award no less than five (5) days prior to permitting such an award of a bonus award and thereafter may change the amount of such bonus

award upon five (5) days written notice to both the Commission and the Board.

(g) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers at each table. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted on a sign at each table. Payout odds shall be conspicuously posted on a sign at each roulette table.

(h) Irregularities

(1) If no winning progressive wager occurs or is active when the table terminal fails to register a progressive wager or the progressive meter fails to function properly, the dealer shall call "No spin" and make a visible hand motion indicating "No spin." All player wagers shall be promptly returned. All gaming at the progressive jackpot roulette table shall cease until the table terminal device has been fixed or the dealer declares that no progressive jackpot wagering is accepted at said table and commences fixed jackpot or standard roulette play.

(2) If a progressive wager is alive when a table terminal fails to register a progressive wager or the progressive meter fails to function properly after a winning progressive wager occurs, the play shall continue for that player's wager until potential progressive jackpot wins are exhausted or the progressive wager loses. Such wager shall be eligible for the progressive jackpot amount reflected on the progressive meter at the time of the table terminal or progressive meter failure. No additional progressive jackpot wagers other than those reflected at the time of table terminal or progressive meter failure shall be accepted. At the conclusion of the spins for the progressive jackpot amount, all gaming at the progressive jackpot roulette table shall cease until the table terminal device has been fixed or the dealer declares that no progressive jackpot wagering is accepted at said table and commences fixed jackpot or standard roulette play.

25. SUPER PAN GAME.

(a) Equipment.

(1) At least six (6) decks of cards and at least one (1) solid-colored cutting card. All 7's, 8's, 9's, and 10's shall be removed from the decks.

(2) Three dice and a dice cup.

(b) Value of the Cards.

The value of the cards in each deck shall be as follows:

(1) Any card from 2 to 6 shall have its face value;

(2) Any Jack, King or Queen shall have a value of ten;

(3) Any Ace shall have a value of one; and

(4) The "Point Count" of a hand shall be a single digit number from 0 to 9 inclusive and shall be determined by totaling the value of the cards in the hand. If the total of the cards in a hand is a two digit number, the left digit of such number shall be discarded as having no value and the right digit shall constitute the point count of the hand.

(c) Types of Wagers.

(1) Prior to the first card being dealt for any round of play, each player at the game of Super Pan Game shall make a wager against the gaming operation which shall win if the "Player's Hand" has a point count higher than the "Banker's Hand", and lose if that point count is lower than the "Banker's Hand".

(2) All tie hands will neither win nor lose.

(3) All wagers shall be made by placing gaming chips on the appropriate areas of the Super Pan Game layout. No call bets will be accepted.

(4) Winning wagers shall be paid off at even money, less any gaming operation commission or vigorish.

(5) All players' wagers are against the "Banker's Hand" which is under the direction and control of the gaming operation.

(6) The gaming operation may permit from one to six people to wager on any one hand in "Super Pan Game".

(d) The Shuffle.

(1) After receiving six or more decks of cards at the table, the dealer shall sort and inspect the cards and the floorperson assigned to the table shall verify the inspection.

(2) After the cards are inspected, the cards shall be spread out face up on the table for visual inspection by the first player or players to arrive at the table. The cards shall be spread out in horizontal fan shaped columns by deck according to suit and in sequence within the suit.

(3) After the first player (or players) is afforded an opportunity to visually inspect the cards, the cards shall be turned face down on the table, mixed thoroughly by a "washing" or a "chemmy shuffle" of the cards and stacked.

(4) The floorperson or supervisor shall inspect the three die for any visual defects. Any additional inspections will be performed by the floorperson or supervisor as he or she believes necessary.

(5) Immediately prior to commencement of play and after each shoe of cards is dealt, the dealer shall shuffle the cards so that they are randomly intermixed.

(6) After the cards have been shuffled, the dealer shall offer the stack of cards, with backs facing away from the dealer, to one of the players to be cut. If no player accepts the cut, the dealer will cut the cards.

(7) The designated player shall cut the cards by placing the cutting card in the stack at least 10 cards in from either end.

(8) Once the cutting card has been inserted by one of the players, the dealer shall take all cards in front of the cutting card and place them on the back of the stack after which the dealer shall insert the cutting card in a position at least approximately one eighth of the way in from the back of the stack. The stack of cards shall then be inserted into the dealing shoe for commencement of play.

(9) Prior to commencement of play, the dealer shall remove the first card from the shoe and place it, and additional amount of cards equal to the amount on the first card drawn, in the discard rack.

(e) The Play.

(1) At commencement of play, the dealer shall take the dice cup from the right of the chip tray, shake it at

least three times, and place the covered shaker on the table.

(2) The dealer will call "no more wagers" prior to uncovering the dice. No player may increase, decrease or remove his or her bet at this time.

(3) The dealer will uncover the dice cup and announce the total. The total will determine the first player.

(4) Starting at the first player and dealing clockwise, the dealer will deal one card at a time to each position having a wager, including the dealer, until each position has a total of three cards.

(5) After the three cards have been dealt and before the players are permitted to draw, all hands must be placed face down in front of their respective bets.

(6) Starting with the first player and proceeding clockwise, the dealer shall deal face downwards a maximum of one additional card if the player signals for this draw option, and that card is placed perpendicular to the hand so that it may be identified as the "draw card". Taking or not taking a card is the player's option.

(7) After all players have acted, the dealer will announce "All hands set". The dealer shall then face the "Banker's Hand" and place it in front of the chip tray.

(8) The dealer will announce the banker's card total. If the "Banker's Hand" has a total of 0, 1, 2, 3, 4, or 5, he or she must draw. If the "Banker's Hand" has a total of 6, 7, 8, or 9, the dealer must stand.

(9) The draw card is placed to the right of the three card hand.

(10) The dealer announces the new total.

(11) Starting at the position designated by the first player, and going clockwise, the dealer shall face the players' hands.

(12) A wager against the gaming operation shall win if the "Player's Hand" has a point count higher than the "Banker's Hand" and lose if that point count is lower than the "Banker's Hand". All tie hands will neither win nor lose.

(13) Starting at the first player and moving clockwise, all wagers are settled and cards are removed and placed in the discard rack.

(14) The gaming operation may extract a charge (to be known as a commission) on any amount won, not to exceed 10%. The gaming operation will collect the commission from any winning wager at the time of the pay off.

(f) Irregularities.

(1) A card found face up in the shoe, shall not be used in the game and shall be placed in the discard rack.

(2) A card drawn in error without its face being exposed shall be used as though it were the next card from the shoe.

(3) After the initial three cards have been dealt to each player and a card is drawn in error and exposed to the players, it will be declared "dead". The dealer shall place it, and an additional amount of cards equal to the amount on the exposed card, in the discard rack.

(4) Once the dice cup is opened, no player will increase or decrease his or her wager.

(5) The player is responsible for protecting his or her hand. If a hand is fouled through carelessness with other cards, the player's wager is forfeited.

(6) Cards cannot be backed up. If a player is mistakenly passed over during the draw, he or she has the option of standing or receiving a draw card after all other players have drawn, but before the dealer acts on his or her hand.

(7) Any player or dealer having the wrong number of cards has a fouled hand.

(g) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers at each table. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted on a sign at each table.

26. UNDER AND OVER SEVEN.

(a) Equipment.

(1) A cage or chute.

(2) Two dice. If thrown, the dealer has at least five dice in front of him or her, from which the shooter selects two dice to roll.

(3) A table and layout with three betting spaces reflecting a number "7", "Under 7" and "Over 7". If dice are thrown, a table with an upright rail running around the table's outside edges, forcing a rectangular enclosure. This rail serves as a backboard and helps to prevent the dice from falling off the table.

(b) The Play and Odds.

(1) The player places the wager on any one of the three spaces on the layout. The dice are thrown by the player or dealer or tumbled in the cage or chute. A wager on "Under 7" wins if the total of the two dice is 2, 3, 4, 5 or 6. The odds on this wager are even or 1 to 1. A wager on "Over 7" wins if the total of the two dice is 8, 9, 10, 11 or 12. The odds on this wager are even or 1 to 1. A wager on the "7" space wins if the total of the two dice is 7. The odds on this wager are 4 to 1.

(c) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers at each table. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted on a sign at each table.

27. CARIBBEAN STUD. (*Amended 11/23/94, 9/04/97)(a) Equipment.

- (1) A table layout with betting spaces for up to seven players.
- (2) A single deck of 52 standard playing cards.
- (3) Display boards reflecting the amount of the Progressive Jackpot.
- (4) Meters recording the amount of the Progressive Jackpot.
- (5) An electromechanical card shuffling device. (optional)

(b) The Object of the Game.

Each player wagers that his or her five card hand will be higher in value than the dealer's hand. The players and the dealer are not permitted to discard and draw any additional cards.

(c) The Play.

After the cards are thoroughly shuffled by the dealer or the card shuffling device, each player may place an original wager in the betting space marked Ante. Players, after making an ante wager, have the option of making a Progressive Jackpot bet by depositing a token or cheque into the appropriate coin-drop located on the layout. (Players win all or part of the Progressive Jackpot with hands of: Royal Flush, Straight Flush, Four of a Kind, Full House or Flush.) Starting with the player seated to the dealer's extreme left, five cards are dealt face-down to each betting position in a clockwise manner, including the dealer. The dealer then turns over one of his or her cards.

After reviewing his or her five card hand, each player has the option to "fold" or "play." Players deciding to fold return their cards to the dealer, who shall collect their Ante wagers. Players deciding to play must place a wager equal to exactly twice the amount of their Ante wager in the space marked "Bet." After all of the players have made their decisions the dealer turns his or her four face-down cards face-up.

If the dealer's hand does not contain an Ace and a King or higher card value, the dealer pays all Ante wagers even money and returns all Bet wagers to the players. If the dealer's hand contains an Ace and a King or higher card count, the dealer

compares his or her hand with each player's hand individually, starting with the player on the dealer's extreme right and proceeding around the table in a counter-clockwise direction. If the dealer's hand is higher than the player's hand, the player's Ante and Bet wagers are collected by the dealer, along with the player's cards.

If the player's hand is higher than the dealer's hand the player's Ante Wager is paid at even money and the player's Bet wager is paid according to the following schedule:

(d) Payouts.

(1) Caribbean Stud:

1 pair	even money
2 pairs	2 to 1*
3 of a Kind	3 to 1*
Straight	4 to 1*
Flush	5 to 1*
Full House	7 to 1*
4 of a Kind	20 to 1*
Straight Flush	50 to 1*
Royal Flush	100 to 1*

* (up to the table maximum payout)

(2) Progressive Jackpot: Regardless of the card count of the dealer's hand, a player who has placed a Progressive Jackpot bet and has a hand that qualifies for the Progressive Jackpot will win the Progressive Jackpot amount appropriate to his or her hand, according to the following schedule:

Royal Flush	100% of the Jackpot
Straight Flush	10% of the Jackpot
4 of a Kind	\$500.00
Full House	\$100.00
Flush	\$ 50.00

If two or more players qualify for all or part of the Progressive Jackpot during the same hand, the winners will share the jackpot prize as an aggregate.

(e) Irregularities.

(1) If any player is dealt an incorrect number of cards this constitutes a dead hand for this player only.

(2) If the dealer is dealt an incorrect number of cards this constitutes a dead hand for all hands at the table, and the cards are reshuffled.

(3) Players may not exchange information regarding their hands. Violations shall constitute dead hands and shall result in the forfeiture of the offending players' Ante wagers and Bet wagers.

(4) When the dealer and player(s) have an Ace and a King or identical pairs, the winning hand is determined by the next highest point value card. In the event that the dealer and player have been dealt identical hands, that hand is a push.

(f) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum wagers and maximum wagers at each table including the value of the tokens or cheques used in the Progressive Jackpot. The amounts of the minimum wagers and maximum wagers shall be conspicuously posted on the sign at each table.

28. LET IT RIDE. (*Amended 11/23/94, 2/23/95, 9/18/97)

(a) Equipment.

(1) A table with a Let It Ride layout which provides betting areas for up to seven players. The layout shall indicate the returns on various hand combinations as specified in subsection (d). Within each betting area there are:

(A) three betting spaces, referred hereafter as Bet 1, Bet 2 and Bet \$; and

(B) a betting space for a Tournament Bet equipped with an indicator light, which is automatically illuminated after the bet is placed and shall remain lighted until the end of each game to serve as evidence that a Tournament Bet had been placed in that betting space.

(2) A single deck of fifty-two (52) standard playing cards, unless an electromechanical card-shuffling device is utilized, in which case two (2) alternating decks of fifty-two (52) cards with backs of the same design and different colors shall be utilized.

(3) An electromechanical card-shuffling device (optional).

(4) A central computer linked to each Let It Ride table's electronic table controller and electronic message center (if applicable), communicating and collecting accounting data and game-related information to be forwarded to the Nation gaming operation.

(5) An electronic controller, attached to each table, linked to a central computer which communicates accounting data and other game-related information

(6) One or more optional electronic message center(s), linked to the central computer and displaying game-related information relayed to it by the central computer.

(b) The Object of the Game.

Each player wagers that his or her five card poker hand will equal or exceed a pair of Tens or higher poker hand and be paid according to subsection (d). Players at a Let It Ride table also may wager an additional amount which will entitle the player to supplemental bonus if the player achieves a certain hand combination as listed on the table layout. Additionally, certain hands entitled to bonus awards shall permit the winner to participate in a Let It Ride Tournament playoff.

(c) The Play.

Each player shall be responsible for the placement of their wagers and, if applicable, to ensure his or her Tournament wager indicator light is illuminated on the Let It Ride layout when a Tournament wager is made.

(1) After the deck of cards is thoroughly shuffled by the dealer or card shuffling device, each player places three wagers of equal value onto the Bet 1, Bet 2 and Bet \$ betting spaces. If the Let It Ride table is so equipped, players may place a separate wager as a Tournament Bet in the appropriate betting space at this time, causing the indicator light to illuminate, thereby evidencing that a wager has been placed in that betting space. The dealer shall ensure that the indicator light for each Tournament Bet space remains illuminated after each wager is collected by the dealer. To be eligible to place a Tournament Bet, each player must also place wagers in the Bet 1, Bet 2 and Bet \$ betting spaces. No Tournament Bets shall be placed after the dealer announces and signals "no more bets", makes a visible hand motion indicating no more bets are accepted. The dealer, starting with the player seated the dealer's extreme left and continuing in a clockwise manner, deals three face-down cards to each of the players and three face-down dealer's cards to himself or herself. Two of the face-down dealer's cards are placed, side-by-side, into the appropriate spaces located in front of the cheque rack, and are referred to as "Community Cards." The remaining dealer's card is burned.

(2) Each player is then permitted to view his or her own three face-down cards and, based on the poker value of the three cards, is offered the option to either let the three bets continue ("ride") or request that the dealer return the Bet 1 wager.

(3) The dealer turns one of his or her cards face-up and this Community Card is considered to be the fourth card for each player at the table. Once again, players are offered the option to either let the bets ride or request that the dealer return one of the remaining wagers. The player must let the Bet \$ wager ride. The Bet \$ wager cannot be returned to the player.

(4) Players place their three face-down cards on the table under the Bet \$ wager.

(5) The dealer turns his or her remaining card face-up and this Community Card is considered the fifth and final card for each player at the table.

(6) Starting with the player seated on the dealer's extreme right and continuing in a counter-clockwise manner, the dealer collects the cards and losing wagers of the players whose hands do not contain a pair of Tens or higher poker hand.

(7) Each of the remaining wagers placed by players possessing hands which contain a pair of Tens or higher hand shall be paid according to the schedule of payouts listed in subsection (d).

(d) Payout Odds.*

(1) Let It Ride

Pair of Tens or Better	1-1	(even money)
Two Pairs	2-1	
Three of a Kind	3-1	
Straight	5-1	
Flush	8-1	
Full House	11-1	
Four of a Kind	50-1	
Straight Flush	200-1	
Royal Flush	1000-1	

* The aggregate prize limit per table, per round, shall be determined by the Nation and shall be conspicuously posted at each table.

(2) Tournament Bonus Payouts

In addition to winning the Let It Ride payout listed in subparagraph (1) above, a player who placed a wager on a Tournament Bet and receives a certain hand combination as listed on the table layout qualifies for a Tournament Bonus payout. The amount of the Tournament Bonus payout shall be predetermined by the Nation gaming operation and must be conspicuously posted on each Let It Ride table layout.

(3) The Tournament Playoff Round

In addition to winning both the Let It Ride payout listed in subparagraph (1) above and the Tournament Bonus payout listed in subparagraph (2) above, a player who placed a wager on a Tournament Bet and qualified for a Tournament Bonus payout by achieving a certain hand combination as predetermined by the Nation gaming operation and conspicuously posted at each Let It Ride table is automatically qualified to participate in a Tournament playoff. The Tournament playoff, to be held at a frequency determined by the Nation gaming operation, is open to qualifying contestants who compete by playing the basic Let It Ride game, wagering with non-redeemable gaming cheques provided by the Nation gaming operation. Tournament playoff prizes, predetermined by the Nation gaming operation and announced prior to the Tournament

playoff, are awarded to all players as they compete through several rounds of elimination for an opportunity to advance to the final round. Prizes awarded for Tournament playoff play must be prominently listed and conspicuously displayed at each table where a Tournament playoff round takes place.

In the final round, after a fixed number of hands have been played, the players are ranked according to their non-redeemable gaming cheque totals. Prices, predetermined by the Nation gaming operation, are distributed to each of the finalists.

(e) Irregularities.

(1) If any player is dealt an incorrect number of cards, this constitutes a dead hand for this player only.

(2) If the dealer is dealt an incorrect number of cards, this constitutes a dead hand for all players.

(3) Players may not exchange information regarding their hands. Violations shall constitute dead hands and shall result in the forfeiture of the offending players' wagers.

(4) A card that is found face up while the cards are being dealt shall not be used in the game and shall be placed in the discard rack. If more than one card is found face up during the dealing of the cards, all hands shall be void and the cards shall be reshuffled.

(5) If the Tournament Bet illuminator fails to function properly at any player position, no Tournament Bets may be accepted at said position. Failure of such illuminator shall not impair the ability of the Nation gaming operation from utilizing said table or position for standard, non-Tournament Let It Ride games.

(f) Minimum Wagers and Maximum Wagers.

The Nation gaming operation shall determine the minimum and maximum wagers and the value of the tokens at each table. The amounts of the minimum and maximum wagers and the value of the tokens shall be conspicuously posted on a sign at each table.

(g) Procedural Matters

(1) The Nation gaming operation shall notify, in writing, the Commission and the Board no less than five (5) days prior to permitting an award of a supplemental bonus award as defined in paragraph (d) subsection (2) above, for hands other than a Straight or better.

(2) Prior to the initiation of acceptance of Let It Ride Tournament Bets, the Nation gaming operation shall notify

in writing the Commission and the Board which hand combinations shall automatically qualify patrons for participation in Let It Ride Tournaments. The Nation gaming operation shall notify the Commission and the Board in writing no less than five (5) days in advance of any change to hand combinations automatically qualifying the patron to participate in a Let It Ride Tournament playoff.

(3) The Nation gaming operation must conspicuously post the date and time for the Let It Ride Tournament playoff in which patrons with qualifying hands achieved each day may participate.

(4) Prizes to be offered at any Let It Ride Tournament playoff shall be announced and conspicuously posted no less than seven (7) days prior to the commencement of such Tournament playoff.

29. INSTANT MULTI-GAME. (*Amended 11/23/94)(a) Equipment.

- (1) A fault-tolerant central computer, with supporting hardware and software, to coordinate network activities, provide system interface, and store and manage a player/account database.
- (2) A network of five or more contiguous player terminals with touch-screen or button-controlled video monitors connected to an electronic selection device and the central computer via a communications network.
- (3) One or more electronic selection devices, utilizing random number generators, each of which selects any combination or combinations of numbers, colors or symbols for a network of player terminals.
- (4) One or more cashier or teller terminals at both central and remote (mobile) locations which are connected to the central computer and used to create and settle player accounts.

(b) Play.

- (1) A player participates in Instant Multi-Game by first depositing cash at an Instant Multi-Game cage or remote cashier's terminal. A combined deposit/winnings account for the player is created in the central computer and he or she is issued an account number or a personal identification card containing the player's name and account number. The player also selects a personal identification number ("PIN") at the time the account number or personal identification card is issued.
- (2) Each Instant Multi-Game player terminal contains a video monitor with touch-screens or buttons for player interaction. To begin play, the player inserts his or her personal identification card and enters his or her PIN (or enters an account number and PIN) at a player terminal. The video monitor displays one or more Instant Multi-Game choices, ranging from Instant Keno to Instant Bingo.
- (3) Once a game has been selected, the player enters the amount of his or her wager and the central computer verifies that the player has sufficient funds in his or her deposit/winnings account for the amount of the wager. After the wager has been recorded, the central computer deducts the amount of the wager from the player's deposit/winnings account. The video monitor on the player terminal displays the amount wagered, the funds remaining in the deposit/winnings account, and the game

number.

- (4) Before any game begins, a player also may make certain selections required by the rules of each game, including the decision to participate in each game and the selection of a pre-determined amount of numbers, colors and/or symbols.
 - (5) At regular intervals, each electronic selection device randomly generates a pre-determined amount of numbers, colors and/or symbols, as required by the rules of each Instant game. The numbers, colors and/or symbols chosen by an electronic selection device are simultaneously displayed on the video monitor of each player terminal participating in a particular Instant game. Any number, colors or symbols chosen by the player are also displayed on his or her video monitor, with any winning match or matches of numbers, colors or symbols suitably highlighted or displayed on each player terminal.
 - (6) In Instant Multi-Game, all games offered at each player terminal are played automatically according to pre-established time sequences, regardless of whether or not wagers have been made by any player. Since all Instant games operate continuously, players cannot and do not activate any of the offered games or electronic selection devices from any of the player terminals.
 - (7) After each Instant game has been played, the central computer records the result of the game selected at each activated player terminal and credits any winnings to the player's deposit/winnings account. Winnings in each game are determined using a fixed payout schedule.
 - (8) When the player has finished playing Instant Multi-Game, he or she exits the game by using the appropriate touch-screen command or button on the player terminal and returning to an Instant Multi-Game cage or remote cashier's terminal. The central computer reports the amount remaining in the player's deposit/winnings account and, after proper identification has been presented to the cage or remote terminal personnel, the balance of these funds is redeemed by the player.
 - (9) Brochures and other material designed to inform the general public about participating in Instant Multi-Game shall be distributed at each location where Instant Multi-Game is played.
- (c) Prizes.

Winners at Instant Multi-Game may receive cash, prizes redeemable for cash, or merchandise, at the discretion of the Nation. If merchandise prizes are to be awarded, the specific type of prize or prizes which may be won must be disclosed to the player

before the game begins.

(d) Payoff Odds.

Payoff odds shall be determined by the Nation. The payoff odds for all winning combinations shall be conspicuously posted on a sign and printed in the brochures available at each location where Instant Multi-Game is played.

(e) Minimum Wagers and Maximum Wagers.

The Nation shall determine the minimum and maximum wagers. The amounts of such wagers shall be conspicuously posted as described in subsection (d) above.

(f) Instant Game Rules.

- (1) Instant Keno. The video monitor of each player terminal contains a matrix, grid, or box with up to 80 numbers and a separate display showing the game number, wager amount, and the player's combined deposit/winnings balance. A player selects up to 20 numbers, as designated by the gaming operation, and determines his or her wager amount. A player also may have his or her numbers randomly selected at each player terminal through the initiation of a "Quick Pick" function. At regular intervals, the electronic selection device randomly generates up to 25 numbers, as designated by the gaming operation, from a pool of 80 numbers. The numbers chosen by the electronic selection device are simultaneously displayed on the matrices of each player terminal selecting the Instant Keno game. Numbers matching a player's selected or "Quick Pick" numbers are highlighted on the matrices of each remote terminal. Winnings in each game are determined using a fixed payout schedule. Instant Keno progresses at regular, pre-established time sequences, regardless of whether or not any player wagers are made. Since Instant Keno operates continuously, players cannot activate a game from any of the player terminals.
- (2) Instant Lotto. In Instant Lotto, the video monitor of each player terminal contains one or more matrices, boxes, or tickets displaying a pre-determined set of numbers and a separate display showing the game number, wager amount, and the player's combined deposit/winnings balance. A player selects a pre-determined amount of numbers, as designated by the gaming operation, and determines his or her wager amount. A player also may have his or her numbers randomly selected at each player terminal through the initiation of a "Quick Pick" function. At regular intervals, the electronic selection device then randomly generates a pre-determined amount of numbers from a finite pool of numbers. The numbers chosen by the electronic selection device are

simultaneously displayed on the player's video monitor. Numbers matching the player's selected numbers are highlighted on the video monitor of each player terminal. Players with any matches are then paid according to a fixed payout schedule. Instant Lotto progresses at regular, pre-established time sequences, regardless of whether or not any player wagers are made. Since Instant Lotto operates continuously, players may not activate a game from any of the player terminals.

- (3) Instant Bingo. The video monitor of each player terminal contains one or more bingo cards, each displaying a pre-determined set of numbers, and a separate display showing the game number, wager amount, and the player's combined deposit/winnings balance. A player selects the bingo card or cards which he or she wants to play and determines his or her wager amount. At regular intervals, the electronic selection device then randomly generates a pre-determined amount of numbers from a finite pool of numbers. The numbers chosen by the electronic selection device are simultaneously displayed on the player's video monitor. Numbers matching or covering the player's numbers on each selected card are highlighted on each player terminal. Players with any winning patterns are then paid according to a fixed payout schedule. Instant Bingo progresses at regular, pre-established time sequences, regardless of whether or not any player wagers are made. Since Instant Bingo operates continuously, players may not activate a game from any of the player terminals.
- (4) Instant Single- or Multi-Line. The video monitor of each player terminal contains a matrix or box with 3, 6, or 9 numbers, colors or symbols and a separate display showing the game number, wager amount, and the player's combined deposit/winnings account. As determined by the gaming operation, each player chooses a pre-determined amount of numbers, colors and/or symbols and determines his or her wager amount. A player also may increase his or her wager by selecting up to 3 horizontal, 3 vertical, and 2 diagonal lines of 3 symbols each and wagering 1 unit for each combination chosen or for the entire field of play. At regular intervals, the electronic selection device randomly generates 3, 6, or 9 numbers, color or symbols from a finite pool of numbers, colors or symbols. Any numbers or symbols chosen by the electronic selection device can be displayed as fruit, bars, bells, jewels, animals, flags, stars, sevens, or other symbols on the screen of each player terminal playing Instant Single- or Multi-Line. Players with numbers, colors or symbols matching various selected combinations (e.g. three matching fruit in a horizontal or diagonal row) are paid according to a fixed payout schedule. Instant Single- or Multi-Line progresses at regular, pre-established time sequences, regardless of whether or not any player wagers

are made. Since Instant Single- or Multi-Line operates continuously, players may not activate a game from any of the player terminals.

- (5) Instant Pulltabs. The video monitor of each player terminal contains one or more covered pulltab cards and a separate display showing the game number, wager amount, and the player's combined deposit/winnings account. As determined by the gaming operation, a player selects the pulltab card or cards which he or she wants to play, determines his or her wager amount, and selects a pre-determined amount of numbers, colors or symbols. At regular intervals, the electronic selection device randomly generates a pre-determined combination of numbers, colors or symbols from a finite pool of numbers, colors or symbols. Any numbers or symbols chosen by the electronic selection device can be viewed as an uncovered pulltab card and displayed as combinations of fruit, bars, bells, jewels, animals, flags, stars, sevens, or other symbols on the screen of each player terminal playing Instant Pulltabs. Players with numbers, colors or symbols matching various selected combinations (e.g., two or three matching stars in a horizontal row) are paid according to a fixed payout schedule. Instant Pulltabs progresses at regular, pre-established time sequences, regardless of whether or not any player wagers are made. Since Instant Pulltabs operates continuously, players may not activate a game from any of the player terminals.
- (6) Instant Mania. The video monitor of each player terminal contains a wheel, matrix, grid, or box with a pre-determined amount of numbers, colors and/or symbols and a separate display showing the game number, wager amount, and the player's combined deposit/winnings account. A player determines his or her wager amount and selects a pre-determined amount of numbers, colors or symbols. At regular intervals, the electronic selection device randomly generates a pre-determined amount of numbers, colors or symbols from a finite pool of numbers, colors or symbols. Any numbers or symbols chosen by the electronic selection device can be displayed as fruit, dice, bars, bells, jewels, animals, flags, stars, sevens or other symbols on the screen of each remote terminal playing Instant Mania. Players with numbers, colors or symbols matching various play combinations (e.g., three matching fruit) are paid according to a fixed payout schedule. Instant Mania progresses at regular, pre-established time sequences, regardless of whether or not any player wagers are made. Since Instant Mania operates continuously, players may not activate a game from any of the player terminals.

APPENDIX B:

Standards of Operation and Management for
Class III Games of Chance

1. DEFINITIONS.

In these Standards, unless the context indicates otherwise:

"Accounting Department" is that established in the Nation operation's system of organization in accordance with these Standards;

"Board" or "State gaming agency" shall mean the New York State Racing and Wagering Board, its authorized officials, agents and representatives acting in their official capacities or such other agency of the State as the State may from time to time designate by written notice as the State agency responsible for the regulation of Class III gaming jointly with the Nation gaming agency;

"Boxperson" refers to an individual assigned to supervise other individuals operating certain table games authorized in Appendix A of this Compact.

"Cage Cashiers" are the cashiers performing any of the functions in the Cashier's Cage as set forth in these Standards;

"Cash Equivalent" means a Treasury check, a travelers check, wire transfer of funds, Western Union transfer check, money order, certified check, cashiers check, payroll check, a check drawn on the Nation account of the Nation operation payable to the patron or to the Nation operation, a promotional coupon, or a voucher recording cash drawn against a credit card or charge card;

"Chief Financial Officer" is the senior executive of the Nation operation with overall responsibility for its Internal and Accounting Controls, who shall report to the Chief Operating Officer;

"Chief Operating Officer" or General Manager/Chief Operating Officer is the senior executive of the Nation operation exercising the overall management or authority over all the operations of the Nation operation and the carrying out by employees of the Nation operation of their duties;

"Closer" means the original of the Table Inventory Slip upon which each table inventory is recorded at the end of each shift;

"Compact" means this agreement between the Oneida Indian Nation of New York and the State of New York;

"Commission" or "Nation gaming agency" means the Oneida Indian Nation of New York Gaming Commission or such other agency of the Nation as the Nation may from time to time designate by written notice to the State as the Nation agency responsible for the regulation of Class III gaming jointly with the Board;

"Compensation" means direct or indirect payment for services performed including, but not limited to, salary, wages, bonuses, deferred payments, overtime and premium payments;

"Counter Check" is the document reflecting a payment by a patron at a gaming table drawn on a form prepared by the Nation operation against a checking account of the patron in accordance with these Standards;

"Credit Slip" (known as a "Credit") is the document reflecting the removal of gaming chips, coins and plaques from a gaming table in accordance with these Standards;

"Dealer" refers to an individual assigned to operate those table games described in Appendix A of this Compact.

"Drop Box" is the metal container attached to a gaming table for deposit of cash and certain documents received at a gaming table as provided by these Standards;

"Fill Slip" (known as a "Fill") is the document reflecting the distribution of gaming chips, coins and plaques to a gaming table as provided in these Standards;

"Gaming facility" means any building in which Class III gaming, as authorized by this Compact, is conducted on Nation lands and shall include all public and non-public areas of any such building;

"Gaming Facility Supervisor" or "Supervisor" is a reference to a person in a supervisory capacity and required to perform certain functions under these Standards, including but not limited to, Pit Bosses, Gaming Facility Shift Managers, the Assistant Gaming Facility Manager and the Gaming Facility Manager;

"Imprest Basis" means the basis on which Cashier's Cage funds are replenished from time to time by exactly the amount of the net expenditures made from the funds and amounts received and in which a review of the expenditure is made by a higher authority before replenishment;

"Incompatible Function" means a function, for accounting and internal control purposes, that places any person or department in a position to both perpetrate and conceal errors or irregularities in the normal course of his or her duties. Anyone both recording transactions and having access to the relevant assets is in a position to perpetrate errors or irregularities. Persons may have incompatible functions if such persons are members of departments which have Supervisors who are not independent of each other;

"Independent Certified Public Accountant" means a Professional Accountant suitably qualified and sufficiently independent to act as Auditor of the Nation operation;

"Inspector" means an employee of the Nation gaming agency duly appointed by the Nation gaming agency as an Inspector;

"Master Game Report" means a record of the computation of the win or loss for each gaming table each game, and each shift;

"Nation" means the Oneida Indian Nation of New York, its authorized officials, agents and representatives;

"Nation gaming operation" or "Nation operation" means any enterprise, business or activity operated or authorized to operate by the Nation on its lands for the purpose of conducting any form of Class III gaming;

"Opener" means the duplicate copy of the Table Inventory Slip upon which each Table inventory is recorded at the end of each shift and serves as the record of each Table inventory at the beginning of the next succeeding shift;

"Patron Cash Deposit" means an amount of cash, cash equivalent, gaming chips or plaques deposited with the Gaming facility by a patron for his subsequent use;

"Pit" means an arrangement of gaming tables in which Gaming facility personnel administer and supervise the games played at the tables by the patrons located on the outside perimeter of the arrangement;

"Pit Clerk" means the person located at a desk in the pit to prepare, under the supervision and direction of the Cage Manager, documentation required for the operation of games

including but not limited to, Requests for Fills, Requests for Credits, and Counter Checks;

"Request for Credit" is the document reflecting the authorization for preparation of a credit with respect to removal of gaming chips, coins and plaques from a gaming table in accordance with these Standards;

"Request for Fill" is the document reflecting the request for the distribution of gaming chips, coins and plaques to a gaming table as provided in these Standards;

"Shift" means either the normal daily work period of a group of employees administering and supervising the operations of table games, and Cashier's Cage working in relay with another such succeeding or preceding group of employees;

"State law enforcement agency" means the New York State Police or such other law enforcement agency of the State as the State may from time to time designate by written notice to the Commission as the law enforcement agency of the State which will have responsibility for law enforcement with respect to Class III gaming as authorized by the provisions of this Compact;

"Table Game Drop" means the sum of the total amounts of currency, issuance copies of counter checks, promotional coupons, and coin removed from a drop box;

"Table Game Win or Loss" is determined by adding the amount of cash, issuance copies of counter checks, promotional coupons, or coin, the amount recorded on the closer, removed from a drop order on the opener and the total of the amounts recorded on fills removed from a drop box.

2. ACCOUNTING RECORDS.

- (1) The Nation operation shall maintain complete, accurate and legible records of all transactions relating to the revenues and costs of the Gaming facilities.
- (2) General accounting records shall be maintained on a double entry system of accounting with transactions recorded on the accruals basis, and detailed, supporting, subsidiary records, sufficient to meet the requirements of paragraph (4).
- (3) The forms of accounts adopted should be of a standard form which would ensure consistency, comparability, and effective disclosure of financial information.

- (4) The detailed, supporting and subsidiary records shall include, but not necessarily be limited to:
 - (a) Records of all patrons checks initially accepted by the Nation operation, deposited by the Nation operation, returned to the Nation operation as "Uncollected" and ultimately written off as "Uncollectible";
 - (b) Statistical game records to reflect drop and win amounts for each table, for each game, and for each shift;
 - (c) Records of investments in property and equipment used directly in connection with the operation of the Gaming facilities;
 - (d) Records of all loans and other amounts payable by the Nation operation; and
 - (e) Records which identify the purchase, receipt and destruction of gaming chips and plaques.
- (5) All accounting records shall be kept for a period not less than seven (7) years from their respective dates.

3. NATION OPERATION'S SYSTEM OF INTERNAL CONTROL.

- (1) The Nation operation shall submit to the Commission and the Board a description of its system of internal procedures and administrative and accounting controls before gaming operations are to commence and before changes in a previously submitted system are to become effective.
- (2) Each such submission shall contain both narrative and diagrammatic representation of the internal control system to be utilized by the Nation operation.
- (3) The submission required by paragraph (1) shall be signed by the executive responsible for its preparation and shall be accompanied by a report of the Independent Certified Public Accountant stating that the submitted system conforms in all respects to the principles of internal control required by these Standards.

4. FORMS, RECORDS, DOCUMENTS, AND RETENTION.

- (1) All information required by these Standards is to be placed on a form, record or document or in stored data in ink or other permanent form.
- (2) Whenever duplicate or triplicate copies are required of a form record or document:
 - (a) The original, duplicate and triplicate copies shall be color coded and have the name, title or description of the operating department receiving the copy, imprinted thereon;
 - (b) If under these Standards, forms, records, and documents are required to be inserted in a locked dispenser, the last copy shall remain in a continuous unbroken form in the dispenser; and
 - (c) If under these Standards, forms or serial numbers of forms are required to be accounted for or copies of forms are required to be compared for agreement and exceptions noted, such exceptions shall be reported immediately in writing to the Internal Audit Department and the Commission for investigation.
- (3) Unless otherwise specified in these Standards or exempted by the Commission and the Board, all forms, records, documents and stored data required to be prepared, maintained and controlled by these Standards shall:
 - (a) Have the title of the form, record, document or stored data imprinted or pre-printed thereon or therein;
 - (b) Be located on the Nation lands or such other location as is approved by the Commission and the Board; and
 - (c) Be retained for a period of at least seven (7) years in a manner that assures reasonable accessibility to agents of the Commission and the Board.

5. ANNUAL AUDIT AND OTHER REPORTS.

- (1) The Nation operation shall, at its own expense, cause its annual financial statements to be audited in accordance with generally accepted auditing standards by a qualified

Independent Certified Public Accountant approved by the Commission.

- (2) The annual financial statements shall be prepared on a comparative basis for the current and prior fiscal year and shall present the financial position and results of operations in conformity with generally accepted accounting principles.
- (3) Two manually-signed copies of the audited financial statements, together with the report thereon of the Nation operation's Independent Certified Public Accountant shall be filed with the Commission not later than ninety (90) days following the end of the fiscal year.
- (4) The Nation will require the Independent Certified Public Accountant to submit to the Board (or other agency designated by the State) a letter or statement certifying that the financial statements of the Nation gaming operation present fairly, in all material respects, the financial position and results of operations in conformity with generally accepted accounting principles. This letter or statement by the Independent Certified Public Accountant will be submitted on the same day that the annual financial statements and accompanying audit report are filed with the Commission.
- (5) The Nation operation shall require the Independent Certified Public Accountant to render the following additional reports:
 - (a) A report on material weakness in accounting and internal controls. Whenever in the opinion of the Independent Certified Public Accountant there exists no material weaknesses in accounting and internal controls, no report will be required; and
 - (b) A report expressing the opinion of the Independent Certified Public Accountant that based on his or her examination of the financial statements the Nation operation has followed, in all material respects, during the period covered by his examination, the system of accounting and internal control on file with the Commission and the Board. Whenever in the opinion of the Independent Certified Public Accountant the Nation operation has deviated from the system of accounting and internal controls filed with the Commission and the Board or the accounts, records, and control procedures examined are not maintained by the

Nation operation in accordance with the Compact and these standards, the report shall enumerate such deviations. The Independent Certified Public Accountant shall also report on areas of the system no longer considered effective, and shall make recommendations in writing regarding improvements in the system of accounting and internal controls.

- (6) All reports by the Internal Audit Department of the Nation operation shall be consecutively numbered, dated and recorded in a log which shows brief particulars of the contents of each report against each consecutive number.
- (7) Two copies of the reports required by paragraph (4) and two copies of any other reports on accounting and internal controls, administrative controls, or other matters relating to the Nation operation's accounting or operating procedures rendered by the Nation operation's Independent Certified Public Accountant, shall be filed with the Commission and the Board by the Nation operation by April 30 following the end of each fiscal year or within thirty (30) days of receipt whichever is earlier.
- (8) If the Independent Certified Public Accountant who was previously engaged to audit the Nation operation's financial statements resigns or is dismissed as the Nation operation's auditor, or another Independent Certified Public Accountant is engaged as auditor, the Nation operation shall file a report with the Commission and the Board within ten (10) days following the end of the month in which such event occurs, setting forth the following:
 - (a) The date of such resignation, dismissal, or engagement;
 - (b) Whether in connection with the audits of the two most recent years preceding such resignation, dismissal, or engagement there were any disagreements with the former Accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements if not resolved to the satisfaction of the former Accountant would have caused him to make reference in connection with his report to the subject matter of the disagreement, including a description of each such disagreement. The disagreements to be reported include those resolved and those not resolved;

- (c) Whether the former Accountant's report on the financial statements for any of the past two years contained an adverse opinion or disclaimer of opinion or was qualified. The nature of such adverse opinion, disclaimer of opinion, or qualification shall be described; and
- (d) The Nation operation shall request the former Accountant to furnish to the Nation operation a letter addressed to the Commission stating whether he agrees with the statements made by the Nation operation in response to this paragraph. Such letter shall be filed with the Commission and the Board as an exhibit to the report required by these Standards.

6. CLOSED CIRCUIT TELEVISION SYSTEM.

- (1) The Nation operation shall install in its premises a Closed Circuit Television System according to the following specifications.
- (2) The Closed Circuit Television System shall include, but need not be limited to, the following:
 - (a) Light sensitive cameras with zoom, scan, and tilt capabilities to effectively and clandestinely monitor in detail and from various vantage points, the following:
 - (i) the gaming conducted at each gaming table in the Gaming facility and the activities in the Gaming facility pits;
 - (ii) the operations conducted at and in the Cashier's Cage;
 - (iii) the count processes conducted in the count rooms in conformity with these Standards;
 - (iv) the movement of cash, gaming chips, drop boxes, and drop buckets in the premises;
 - (v) the entrances and exits to the Gaming facility and the count rooms; and
 - (vi) such other areas as the Commission and the Board agree to designate.

- (b) Video units with time and date insertion capabilities for taping what is being viewed by any camera of the system;
 - (c) Audio capability in the Soft and Hard Count Rooms; and
 - (d) One or more monitoring rooms in the premises which shall be in use at all times by the employees or agents of the Nation operation assigned to monitor the activities in the Gaming facility and which may be used as necessary by the members and inspectors of the Commission. Access to the monitoring rooms by the Board or other State officials shall be in accordance with Section 4 of the Compact.
- (3) Adequate lighting shall be present in all areas, including gaming tables and pits, where Closed Circuit camera coverage is required to enable clear camera coverage. The coverage shall be of significant quality to produce clear video tape and still picture reproductions.
- (4) The Nation operation shall be required to maintain a surveillance log of all surveillance activities in the monitor room. The log shall be maintained by monitor room personnel and shall include, at a minimum, the following:
- (a) Date and time of surveillance;
 - (b) Person initiating surveillance;
 - (c) Reason for surveillance;
 - (d) Time of termination of surveillance;
 - (e) Summary of the results of the surveillance; and
 - (f) A record of any equipment or camera malfunctions.
- (5) The surveillance log shall be available for inspection in connection with any criminal investigation.
- (6) Video or audio tapes shall be retained for at least seven (7) days and at least thirty (30) days in the case of tapes of evidentiary value, or for such longer period as the Commission and the Board or the State law enforcement agency may request.
- (7) Employees or agents of the Nation operation assigned to monitor activities shall be independent of the Gaming facility, the Security, and the Cashier's Cage Departments.

- (8) Entrances to the Closed Circuit Television monitoring rooms shall not be visible from the Gaming facility area.

7. ORGANIZATION OF THE NATION OPERATION.

- (1) The Nation operation shall have a System of Internal Control that includes the following:
 - (a) Administrative control which includes, but is not limited to, the plan of organization and the procedures and records that are concerned with the decision processes leading to management's authorization of transactions; and
 - (b) Accounting control which includes the plan of organization and the procedures and records that are concerned with the safeguarding of assets and the reliability of financial records and are consequently designed to provide reasonable assurance that:
 - (i) transactions are executed in accordance with the management's general and specific authorization which shall include the requirements of these Standards;
 - (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and with these Standards, and to maintain accountability for assets;
 - (iii) access to assets is permitted only in accordance with management's authorization which shall include the requirements of these Standards; and
 - (iv) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences.
- (2) The Nation operation's system of internal control shall provide for:
 - (a) Competent personnel with integrity and an understanding of prescribed procedures; and
 - (b) The segregation of incompatible functions so that no employee is in a position to perpetrate and

conceal errors or irregularities in the normal course of his duties.

- (3) The Nation operation shall, at a minimum, establish certain departments to manage and oversee the activities of the Casino. Each of the following departments, with the exception of the Internal Audit Department, shall be established by the Nation operation:

- (a) A Surveillance Department supervised by a Director of Surveillance who shall cooperate with, yet perform independently of all other departments and the Director of Surveillance shall be responsible for, but not limited to, the following:

- (i) the clandestine surveillance of the operation and conduct of the table games;
- (ii) the clandestine surveillance of the operation of the Cashier's Cage;
- (iii) the audio-video taping of activities in the count rooms;
- (iv) the detection of cheating, theft, embezzlement, and other illegal activities in the Gaming facility, count rooms, and Cashier's Cage;
- (v) the video taping of illegal and unusual activities monitored; and
- (vi) the notification of appropriate Gaming facility supervisors, and the Commission and the Board and the appropriate law enforcement authorities upon the detection and taping of cheating, theft, embezzlement, or other illegal activities.

- (b) No present or former Surveillance Department employee shall be employed in any other capacity in the Nation operation unless the Commission upon petition approves such employment in a particular capacity upon a finding that: (i) one year has passed since the former Surveillance Department employee worked in the Surveillance Department; and (ii) surveillance and security systems will not be jeopardized or compromised by the proposed employment of the former Surveillance Department employee in the capacity proposed; and (iii) errors, irregularities or illegal acts cannot be

perpetrated and concealed by the former Surveillance Department employee's knowledge of the surveillance system in the capacity in which the former Surveillance Department employee will be employed.

- (c) An Internal Audit Department supervised by an Internal Audit Manager who shall perform independently of all other departments and shall report directly to the Commission regarding matters of policy, purpose, responsibilities, authority and daily operations. Such Department shall be responsible for, but not limited to, the following:
 - (i) the appraisal of the adequacy of internal controls;
 - (ii) the compliance with internal control procedures;
 - (iii) the reporting of instances of non-compliance with the system of internal control;
 - (iv) the reporting of any material weaknesses in the system of internal control; and
 - (v) the recommendation of procedures to eliminate any material weaknesses in the system of internal control.
- (d) A Gaming Facility Department supervised by a Gaming Facility Manager who shall perform independently of all other departments and shall report directly to the Vice President of Casino Operations or General Manager/Chief Operating Officer. The Gaming Facility Manager shall be responsible for the operation and conduct of all table games conducted in the gaming facility.
- (e) A Credit Department supervised by a Credit Manager or Director of Credit who shall cooperate with, yet perform independently of all other departments and shall report directly to the Vice President of Casino Operations or General Manager/Chief Operating Officer. The Credit Manager or Director of Credit shall be responsible for the credit function including, but not limited to, the following:
 - (i) the verification of patron credit references;

- (ii) the establishment of patron check payment limits; and
 - (iii) the maintenance, review and update of the patron's check payment limits; all to be conducted in accordance with the requirements set forth in these Standards.
- (f) A Security Department supervised by a Director of Security who shall cooperate with, yet perform independently of, all other departments and shall report directly to the Chief Operating officer. The Director of Security shall be responsible for the overall security of the establishment including, but not limited to the following:
- (i) the physical safeguarding of assets transported to and from the Gaming facility, and Cashier's Cage departments;
 - (ii) the recording of any and all unusual occurrences within the Gaming facility for which the assignment of a Security Department employee is made. Each incident, without regard to materiality, shall be assigned a sequential number and, at a minimum, the following information shall be recorded in indelible ink in a bound notebook from which pages cannot be removed and each side of each page of which is sequentially numbered:
 - (aa) the assignment number;
 - (bb) the date;
 - (cc) the time;
 - (dd) the nature of the incident;
 - (ee) the person involved in the incident; and
 - (ff) the security department employee assigned.
 - (iii) copies of all Security Department reports shall be furnished to the Commission and the Board;
 - (iv) the physical safety of patrons and their property while in the establishment; and
 - (v) the physical safety of personnel employed by the establishment and their property.
- (g) A Gaming facility Accounting Department supervised by a Director of Gaming Facility Accounting who

shall report directly to the Chief Financial Officer. The Director of Gaming Facility Accounting shall be responsible for, but not limited to, the following:

- (i) accounting controls;
 - (ii) the preparation and control of records and data required by these Standards;
 - (iii) the control of stored data, the supply of unused forms, the accounting for and comparing of forms used in operating the Gaming facility and required by these Standards; and
 - (iv) the control and supervision of the Cashier's Cage.
- (h) A Cashier's Cage supervised by a Cage Manager who shall supervise Cage Cashiers and cooperate with, yet perform independently of, the Gaming facility and Security Departments and shall be under the supervision of and report directly to, the Director of Gaming Facility Accounting. The Cashier's Cage Manager shall be responsible for, but not limited to, the following:
- (i) the custody of currency, coin, patron checks, gaming chips, plaques, promotional coupons, gift certificates, documents and records normally associated with the operation of a Cashier's Cage;
 - (ii) the approval, exchange, redemption and consolidation of patron checks received for the purpose of gaming in conformity with these Standards;
 - (iii) the receipt, distribution and redemption of gaming chips, plaques and promotional coupons in conformity with these Standards; and
 - (iv) such other functions normally associated with the operation of a Cashier's Cage.
- (4) The Nation operation's personnel shall be trained in all accounting and internal control practices and procedures relevant to each employee's individual function. Special instructional programs shall be developed by the Nation operation in addition to any on-the-job instruction sufficient to enable all members of the departments

required by this Standard to be thoroughly conversant and knowledgeable with the appropriate and required manner of performance of all transactions relating to their function.

8. PERSONNEL ASSIGNED TO THE OPERATION AND CONDUCT OF GAMING.

- (1) Table games shall be operated by Dealers who shall be the persons assigned to each game described in Appendix A of this Compact.
- (2) A Pit Boss shall be the supervisor assigned the responsibility for the overall supervision of the operation and conduct of gaming at the table games played within a Pit or group of Pits and shall oversee any intermediate supervisors assigned by the Nation operation to assist in supervision of table games in the Pit.
- (3) A Gaming Facility Shift Manager shall be the supervisor assigned to each shift with the responsibility for the supervision of table games conducted in the Gaming facility. In the absence of the Gaming Facility Manager and the Assistant Gaming Facility Manager, the Gaming Facility Shift Manager shall have the authority of a Gaming Facility Manager.
- (4) An Assistant Gaming Facility Manager shall be the Executive to supervise the overall conduct of table games in the Gaming facility with the authority delegated by the Gaming Facility Manager. In the absence of the Gaming Facility Manager, the Assistant Gaming Facility Manager, shall have the authority of a Gaming Facility Manager.
- (5) A Gaming Facility Manager shall be the Executive Officer assigned the responsibility and authority for the operation of table games including, but not limited to, the hiring and terminating of all Gaming facility personnel, and the creation of high employee morale and good customer relations.
- (6) Nothing in these Standards shall be construed to limit the Nation operation from utilizing personnel in addition to those described herein.

9. CASHIER'S CAGE.

- (1) In each Gaming facility there shall be on or immediately adjacent to the gaming floor a physical structure known

as the Cashier's Cage ("Cage") to house the cashiers and to serve as the central location in the Gaming facility for the following:

- (a) The custody of the Cage inventory comprising currency (including patron's deposits), coins, patron checks, gaming chips, plaques, promotional coupons, gift certificates, forms, documents and records normally associated with the operation of a cage;
 - (b) The approval, exchange, redemption, and consolidation of patron checks for the purpose of gaming in conformity with these Standards;
 - (c) The receipt, distribution, and redemption of gaming chips, plaques and promotional coupons in conformity with these Standards; and
 - (d) Such other functions normally associated with the operations of a Cage.
- (2) The Nation operation shall have a reserve cash bankroll in addition to the imprest funds normally maintained by the Cage on hand in the Cage or readily available to the Cage at the opening of every shift in a minimum amount established by the Nation operation.
- (3) The Cage shall be designed and constructed to provide maximum security including, at a minimum, the following:
- (a) A fully enclosed structure except for openings through which items such as gaming chips and plaques, checks, cash, promotional coupons, records and documents can be passed to service the public and gaming tables;
 - (b) Manually triggered silent alarm systems connected directly to the monitoring rooms of the Closed Circuit Television System and the Security Department Office;
 - (c) Double door entry and exit system that will not permit a person to pass through the second door until the first door is securely locked. In addition:
 - (i) the first door adjacent to the Gaming facility floor of the double door entry and exit system shall be controlled by the Gaming facility Security Department. The second door of the

double door entry and exit system shall be controlled by the Cage;

- (ii) the system shall have Closed Circuit Television coverage which shall be monitored by the Security Department or Surveillance Department; and
- (iii) any entrance to the Cage that is not double door entry and exit system shall be an alarmed emergency exit door only.
- (d) Separate locks on each door of the double door entry and exit system, the keys (or other means of opening) of which shall be different from each other.
- (4) The Nation operation shall place on file with the Commission and the Board the names of all persons authorized to enter the Cage, those who possess the combination or the keys or who control the mechanism to open the locks securing the entrance to the Cage, and those who possess the ability to operate the alarm systems.

10. ACCOUNTING CONTROLS WITHIN THE CASHIER'S CAGE.

- (1) The assets for which the general imprest cashiers are responsible shall be maintained on an imprest basis. At the end of each shift, the cashiers assigned to the outgoing shift, shall record on a Cashier's Count Sheet the face value of each Cage inventory item counted and the total of the opening and closing Cage inventories and shall reconcile the total closing inventory with the total opening inventory.
- (2) The Cage shall be physically segregated by personnel and functions as follows:
 - (a) General Imprest Cashiers shall operate with individual imprest inventories of cash and such cashiers functions shall be, but not limited to, the following:
 - (i) receive cash, cash equivalents, checks, gaming chips and plaques from patrons for check consolidations, total or partial redemptions or substitutions;

- (ii) receive gaming chips and plaques from patrons in exchange for cash;
 - (iii) receive travelers checks and other cash equivalents from patrons in exchange for currency or coin;
 - (iv) receive promotional coupons and other cash equivalents from patrons in exchange for gaming chips;
 - (v) receive cash, cash equivalents, gaming chips and plaques from patrons in exchange for customer deposit forms;
 - (vi) receive customer deposit forms from patrons in exchange for cash in accordance with these Standards;
 - (vii) receive from fill and main bank cashiers, documentation with signatures thereon, required to be prepared for the effective segregation of functions in the Cage;
 - (viii) receive cash, cash equivalents, and patron checks in exchange for gift certificates. Gift certificates are to be issued for non-gaming purposes only; and
 - (ix) in the event of receiving gaming chips from persons who may not have been gaming in exchange for cash, the cashier may cause an entry to be made in a separate log established for the purpose, of the name and address of the person making the exchange, the date, and the amounts and denominations of the chips exchanged.
- (b) Fill Bank Cashiers shall not have access to currency or cash equivalents, except for a limited inventory of fifty and twenty-five cents coins which may only be used to facilitate odds pay-offs or vigorish bets. Such cashiers' functions shall be, but not limited to, the following:
- (i) receive from Security Department personnel, chips, plaques, and coins removed from gaming tables in exchange for the issuance of a Credit;

- (ii) receive from Security Department personnel, requests for Fills in exchange for the issuance of a Fill and the disbursal of gaming chips, plaques, or coins;
 - (iii) receive chips from the General Imprest Cashiers in exchange for proper documentation; and
 - (iv) receive from General and Main Bank cashiers documentation with signatures thereon, required for the effective segregation of functions in the Cage.
- (c) Check Cashiers shall not have access to cash, gaming chips and plaques and such cashiers functions shall be, but not limited to, the following:
- (i) receive the original and redemption copies of Counter Checks;
 - (ii) receive from General Cashiers checks accepted by General Cashiers for Total or Partial Counter Check redemptions;
 - (iii) receive checks from General Cashiers for Counter Check consolidations;
 - (iv) receive personal checks from General Cashiers for Counter Check substitutions;
 - (v) prepare bank deposit slips or supporting documentation for checks to be deposited;
 - (vi) receive Wire Transfer Acknowledgment Forms in accordance with these Standards for the purpose of redeeming Counter Checks or accepting payment on returned Counter Checks; and
 - (vii) receive from General, Fill and Main Bank Cashiers documentation with signatures thereon, required for the effective segregation of functions in the Cashiers' Cage.
- (d) Main Bank Cashiers functions shall be, but not limited to the following:

- (i) receive cash, cash equivalents, and documentation from General Imprest Cashiers in exchange for cash;
 - (ii) receive cash from the Coin and Currency Count Rooms;
 - (iii) receive checks and supporting documentation from Check Bank Cashiers via General Imprest Cashiers for deposit;
 - (iv) prepare the overall Cage reconciliation and accounting records; and
 - (v) receive from General and Fill Cashiers, documentation with signatures thereon, required to be prepared for the effective segregation of functions in the Cage.
- (3) Signatures attesting to the accuracy of the information contained on the following sheets shall be, at a minimum:
- (a) On the Cashiers' Count Sheet, the signatures of the General Imprest Cashiers assigned to the incoming and outgoing shifts.
 - (b) On the Fill Bank Closeout Sheet, the signatures of the Fill Bank Cashiers assigned to the incoming and outgoing shifts.
 - (c) On the Main Bank Closeout Sheet, the signatures of the Main Bank Cashiers assigned to the incoming and outgoing shifts.
- (4) At the conclusion of gaming activity each day, at a minimum, copies of the Cashiers' Count Sheet, Recapitulation, Fill, Main Bank Closeout Sheets and related documentation, shall be forwarded to the Accounting Department for agreement of opening and closing inventories, and agreement of amounts thereon to other forms, records and documentation required by these Standards or for the recording of transactions.

11. DROP BOXES.

- (1) Each gaming table in a Gaming facility shall have attached to it a metal container known as a "Drop Box" in which shall be deposited all cash, promotional coupons, duplicate fills and credits, issuance copies of Counter Checks exchanged at the gaming table for gaming chips or

plaques, requests for fills and credits, and table inventory slips.

- (2) Each drop box shall have:
 - (a) Two separate locks securing the contents placed into the drop box, the keys to which shall be different from each other;
 - (b) A separate lock securing the drop box to the gaming tables, the key to which shall be different from each of the keys to the locks securing the contents of the drop box;
 - (c) An opening through which currency, coins, promotional coupons, forms, records and documents can be inserted into the drop box;
 - (d) Permanently imprinted or impressed thereon, and clearly visible, a number corresponding to a permanent number on the gaming table to which it is attached and a marking to indicate game and shift or gaming day, except that emergency drop boxes may be maintained without such number or marking, provided the word "emergency" is permanently imprinted or impressed thereon and, when put into use, are temporarily marked with the number of the gaming table and identification of the game and shift or gaming day.
- (3) The key utilized to unlock the drop boxes from the gaming tables shall be maintained and controlled by the Security Department.
- (4) The key to one lock securing the contents of the drop boxes shall be maintained and controlled by the Accounting Department. The key to the second lock securing the contents of the drop boxes shall be maintained and controlled by the Commission.

12. DROP BOXES, TRANSPORTATION TO AND FROM GAMING TABLES: STORAGE IN THE COUNT ROOM.

- (1) The Nation operation shall notify an Inspector whenever drop boxes are to be brought to or removed from the gaming tables (except for removal at the time of closing).

- (2) All drop boxes removed from the gaming tables shall be transported, at a minimum, by one Security Department employee directly to, and secured in, the count room.
- (3) All drop boxes, not attached to a gaming table, shall be sorted in the count room in an enclosed storage cabinet or trolley and secured in such cabinet or trolley by a separately keyed, double locking system. The key to one lock shall be maintained and controlled by the Security Department, and the key to the second lock shall be maintained and controlled by the Commission.

13. PROCEDURES FOR ACCEPTING, VERIFYING AND ACCOUNTING FOR WIRE TRANSFERS.

- (1) The Nation operation may, in accordance with these Standards, accept a wire transfer of funds to enable the following:
 - (a) Establishment of a cash deposit pursuant to these Standards;
 - (b) Redemption of an outstanding Counter Check pursuant to these Standards; or
 - (c) Payment of a returned Counter Check pursuant to these Standards.
- (2) Any wire transfer of funds authorized by this section shall be transferred to and deposited in the Nation operation's operating account. The Nation operation shall require its bank to notify it of the receipt and deposit of the wire transfer by transmitting the information required in (3)(b) through (f) below by one or more of the following methods:
 - (a) Direct telephone notification between the Nation operation's bank and a Cage employee, which notification shall be recorded in the Wire Transfer Log in accordance with (3)(f) below;
 - (b) Direct hard copy (printed) communication sent by the Nation operations bank to the Nation operation, which document shall be dated, time-stamped and signed by the Cage employee receiving the notification, and forwarded to the accounting department as supporting documentation in accordance with (7) below; or

- (c) Direct computer access by the Nation operation to the wire transfer transaction as it is credited to its operating account at its bank, which transaction shall be printed from the computer screen and dated, time-stamped and signed by the cage employee receiving the notification, and forwarded to, the Accounting Department as supporting documentation in accordance with (7) below.
- (3) Upon notification in accordance with (b) above that a wire transfer of funds has been credited to the Nation operation's operating account, the Cage employee who received the notice shall record, at a minimum, the following information in the notification section of a Wire Transfer Log maintained in the main bank of the Cage:
 - (a) A sequential wire transfer number which shall be generated by the Nation operation;
 - (b) The date and time of the notification;
 - (c) The name of the Nation operation's bank to which the funds were transferred;
 - (d) The amount of funds transferred, stated in numbers and words;
 - (e) The name of the patron for whose benefit the funds were transferred;
 - (f) The method authorized under (2) above by which the Nation operation was notified of the receipt of the wire transfer and, if by telephone, the name and title of the person at the Nation operation's bank who made the telephone call; and
 - (g) The signature of the Cage employee receiving and recording the information required by this subsection.
- (4) Upon completion of the notification section of the Wire Transfer Log required by (3) above, a Cage supervisor other than the Cage employee who received and recorded notification of the Wire Transfer shall verify receipt of the wire transfer by telephone contact with a previously identified authorized employee of the Nation operation's bank. The Cage supervisor verifying the wire transfer shall confirm the information recorded in the Wire Transfer Log pursuant to (3)(b) through (f) above, and

shall record the following in the verification section of the Wire Transfer Log:

- (a) The name and title of the authorized employee at the Nation operation's bank who confirmed the information;
 - (b) The date and time of verification; and
 - (c) The signature of the Cage supervisor verifying receipt of the wire transfer and the information recorded pursuant to (3) above.
- (5) Upon verification of the wire transfer and completion of the Wire Transfer Log, the General Cashier of the Nation operation shall be deemed, for purposes of compliance with the Commission's rules, to have received cash at the general cashiers' cage in the amount of the wire transfer.
- (6) Upon determining the purpose for the wire transfer, a Cage supervisor shall prepare a Wire Transfer Acknowledgment Form, a two-part form containing, at a minimum, the following information:
- (a) The wire transfer number;
 - (b) The date of the wire transfer;
 - (c) The amount of the wire transfer, stated in numbers and words;
 - (d) The name of the patron;
 - (e) The purpose for the wire transfer (cash deposit; redemption; payment of returned Counter Check);
 - (f) The signature of the preparer; and
 - (g) The signature of either:
 - (i) the Check Bank Cashier, if the funds are to be used for Counter Check redemption or the payment of a returned Counter Check; or
 - (ii) the General Cashier, if the funds are to be used for a cash deposit.
- (7) Upon completion of the information required by (6) (a) through (f) above, the Cage supervisor who prepared the form shall obtain the signature required by (6) (g) above

on both copies of the Wire Transfer Acknowledgment Form, transmit the duplicate copy and any supporting documentation to the Accounting Department, and forward the original Wire Transfer Acknowledgment Form to:

- (a) The Check Bank Cashier, if the funds are to be used for Counter Check redemption or the payment of a returned Counter Check, who shall:
 - (i) post the amount of the funds to the patron's credit account;
 - (ii) if appropriate, return the redeemed Counter Check to the patron;
 - (iii) forward to the Accounting Department the original Wire Transfer Acknowledgment Form for comparison to the duplicate; and
 - (iv) forward to the Accounting Department the redemption copy of any Counter Check redeemed, in accordance with the requirements of these Standards; or
- (b) The General Cashier, if the funds are to be used to establish a cash deposit, who shall:
 - (i) prepare a customer deposit file in accordance with these Standards;
 - (ii) prepare a Customer Deposit Form in accordance with these Standards, except that prior to the release to the patron of any funds credited to a cash deposit file by means of a wire transfer, the patron shall be required to present identification credentials to the General Cashier who shall examine the patron's identification credentials to ensure that the patron is the patron recorded on the Wire Transfer Acknowledgment Form, and, shall maintain documentation supporting that examination; and
 - (iii) forward to the Accounting Department the original Wire Transfer Acknowledgment Form for comparison to the duplicate.
- (8) At the end of the month, a copy of the Wire Transfer Log shall be forwarded to the Accounting Department and reconciled with all Wire Transfer Acknowledgment Forms prepared during that month.

14. PROCEDURE FOR SENDING FUNDS BY WIRE TRANSFER.

- (1) Whenever a patron requests the Nation operation to send funds by wire transfer to a financial institution on behalf of the patron, and the Nation operation elects to honor the request, the patron shall present to the General Cashier the cash, cash equivalents, Nation operation check, chips or plaques representing the amount sought to be transferred, or, in the case of a cash deposit, request that the unused balance of the cash deposit be transferred. In the case of a cash deposit, the Procedures set forth in these Standards for redemption of a cash deposit shall be observed.
- (2) The General Cashier shall obtain from the Main Bank Cashier a Wire Transfer Request Form, a four-part serially pre-numbered form, and shall record thereon, at a minimum, the information required by (2)(g) below:
 - (a) The name of the patron;
 - (b) The date of the transaction;
 - (c) The amount of funds to be wire transferred, stated in numbers and in words;
 - (d) The source of funds to be transferred (cash, cash equivalent, Nation operation check, chips, plaques or cash deposit);
 - (e) The name and address of the financial institution to which the funds will be transferred and the account number to which the funds will be credited;
 - (f) The signature of the patron;
 - (g) The signature of the General Cashier; and
 - (h) The signature of the Main Bank Cashier.
- (3) Prior to obtaining the patron's signature on the Wire Transfer Request Form, the General Cashier shall examine the patron's identification credentials and shall maintain documentation supporting that examination.
- (4) After securing the patron's signature, the General Cashier shall present the Wire Transfer Request Form to the Reserve Cash Cashier, who shall sign the form and retain the original and duplicate copy. The General Cashier shall retain the triplicate copy of the form and

shall give the patron the quadruplicate copy of the form as evidence of the Wire Transfer Request.

- (5) The Reserve Cash Cashier shall immediately forward the original Wire Transfer Request Form to the Accounting Department as authorization to effect the transfer, and shall retain the duplicate copy for agreement with the triplicate copy held by the General Cashier. At the end of the gaming day, and upon agreement of the duplicate and triplicate copies of the Wire Transfer Request Form, the Reserve Cash Cashier shall forward both copies of the form to the Accounting Department.
- (6) Upon receipt of the original Wire Transfer Request Form, the Accounting Department shall contact the Nation operation's bank to authorize the wire transfer of the funds and shall either:
 - (a) Record on the original Wire Transfer Request Form:
 - (i) the name and title of the person contacted at the Nation operation's bank;
 - (ii) the date and time that the wire transfer was authorized; and
 - (iii) the signature of the Accounting Department employee authorizing the wire transfer; or
 - (b) If the wire transfer is authorized by means of a direct computer link between the Nation operation and its bank, print a copy of the wire transfer authorization from the computer screen which shall:
 - (i) comply with the requirements of (6) (a) and (b) above; and
 - (ii) be attached to the original Wire Transfer Request Form.
- (7) At the end of the gaming day, the Accounting Department shall compare the duplicate and triplicate copies of the Wire Transfer Request Form to the original.

15. PROCEDURE FOR ACCEPTANCE OF ACCOUNTING FOR AND REDEMPTION OF PATRON'S CASH DEPOSITS.

- (1) Whenever a patron requests that the Nation operation hold his or her cash, cash equivalents, gaming chips or plaques for subsequent use, and the Nation operation

elects to honor the request, he or she shall deposit the cash, cash equivalents, gaming chips or plaques with a General Cashier.

- (2) A file for each patron shall be prepared either manually or by computer prior to the acceptance of a cash deposit from a patron by a Cage Cashier and such file shall include, at a minimum, the following:
 - (a) The name of the patron;
 - (b) The date and amount of each cash deposit initially accepted from the patron;
 - (c) The date and amount of each check initially accepted from the patron, as a draw against a cash deposit;
 - (d) The date and amount of each cash deposit redemption.
- (3) All information recorded on the customer deposit file shall be in accordance with the Nation operation's system of internal accounting controls.
- (4) A General Cashier accepting a deposit shall prepare a Customer Deposit Form and other necessary documentation evidencing such receipt.
- (5) Customer Deposit Forms shall be serially pre-numbered, each series of Customer Deposit Forms shall be used in sequential order, and the series numbers of all customer Deposit Forms shall be accounted for by employees with no incompatible functions. All original, and duplicate void Customer Deposit Forms shall be marked "VOID" and shall require the signature of the preparer.
- (6) In the event Customer Deposit Forms are manually prepared, a pre-numbered two-part form, at a minimum, shall be used.
- (7) In the event Customer Deposit Forms are computer prepared, each series of Customer Deposit Forms shall be a two-part form, at a minimum, and shall be inserted in a printer that will simultaneously print an original and duplicate and store, in machine readable form, all information printed on the original and duplicate. The stored data shall not be susceptible to change or removal by any personnel after preparation of a Customer Deposit Form.

- (8) On the original and duplicate of the Customer Deposit Forms, or in stored data, the General Cashier shall record, at a minimum, the following information:
 - (a) The name of the patron making the deposit;
 - (b) The total amount being deposited (numerical total and written amount);
 - (c) The date of the deposit;
 - (d) The signature of the General Cashier or, if computer prepared, the identification code of the General Cashier;
 - (e) The nature of the amount received (cash, cash equivalents, chips, plaques or wire transfer).
- (9) After preparation of the Customer Deposit Form the General Cashier shall obtain the patron's signature on the duplicate copy and shall distribute the copies in the following manner:
 - (a) Original copy given to the patron as evidence of the amount held on deposit by the Nation operation;
 - (b) Duplicate copy forwarded along with other necessary documentation to the Check Cashier who shall maintain the documents.
- (10) A patron shall be allowed to use the deposit at the gaming table by supplying information required by the Nation operation to verify his or her identification.
- (11) The Pit Clerk shall ascertain, from the Cage, the amount of the patron deposit available and request the amount the patron wishes to use against this balance. The Pit Clerk shall prepare a Counter Check in compliance with these Standards with the exception that the words "Customer Deposit Withdrawal" shall be recorded on the Counter Check in place of the name of the patron's bank.
- (12) Distribution of the Counter Checks shall comply with these Standards.
- (13) The patron's deposit balance shall be immediately reduced by amounts equal to the Counter Checks issued in the pit.
- (14) A patron may obtain a refund of his or her deposit or any unused portion of a deposit by requesting the refund from a General Cashier or returning his or her copy of the

Customer Deposit Form. The General Cashier shall verify the patron's identification and shall:

- (a) Verify the unused balance with the Check Cashier;
- (b) Have the patron sign the original of the Customer Deposit Forms;
- (c) Prepare necessary documentation evidencing such refund containing the following information:
 - (i) date and shift of preparation;
 - (ii) amount refunded;
 - (iii) type of refund made (cash, check or wire transfer;
 - (iv) patron's name; and
 - (v) signature of the General Cashier preparing such documentation.
- (15) The General Cashier shall forward the original Customer Deposit Form along with any other necessary documentation to the Check Cashier who shall compare the patron's signature and maintain the documents.
- (16) The Check Cashier shall return the original copies of the Counter Check to the General Cashier who shall return it to the patron and refund the unused balance of the deposit to the patron at which time the General Cashier shall maintain the original copy of the Customer Deposit Form along with any other necessary documentation to evidence such refund.
- (17) A log of all Customer Deposits received and returned, shall be prepared manually or by computer on a daily basis, by Check Cashiers and such log shall include, at a minimum, the following:
 - (a) The balance of the Customer Deposits on hand in the Cage at the beginning of each shift;
 - (b) For Customer Deposits received and refunded:
 - (i) the date of the Customer Deposit or refund;
 - (ii) customer Deposit number;
 - (iii) the name of the patron; and

- (iv) the amount of the Customer Deposit; or
- (c) The balance of the Customer Deposits on hand in the Cage at the end of each shift.
- (18) The balance of the Customer Deposit on hand in the Cage at the end of each shift shall be recorded as an outstanding liability and accounted for by the Check Cashier.

16. PROCEDURE FOR EXCHANGE OF CHECKS SUBMITTED BY GAMING PATRONS.

- (1) Except as otherwise provided in this section, no employee of the Nation operation, and no person acting on behalf of or under any arrangement with the Nation operation, shall:
 - (a) Release or discharge any debt which is uncollectible, either in whole or in part, which represents any losses incurred by any person in any gaming activity without maintaining a written record of the deposit, check return and collection efforts as required by these Standards; or
 - (b) Make any loan which represents any losses incurred by any person in any gaming activity without receiving from said player in exchange therefor, a check in the amount of said loan, which check shall conform with these Standards.
- (2) No employee of the Nation operation, and no person acting on behalf of or under any arrangement with the Nation operation, may accept a check from any person unless the requirements of these Standards concerning check cashing, redeeming, consolidating, collecting and recording procedures are observed by the Nation operation and its employees and agents.
- (3) All checks sought to be exchanged in the Nation facility by a patron, with the exception of payroll checks, shall be:
 - (a) Drawn on a bank and payable on demand;
 - (b) Drawn for a specific amount;
 - (c) Made payable to the Nation operation; and
 - (d) Currently dated, but not post dated.

- (4) All checks sought to be exchanged at the Cage shall be:
 - (a) Presented directly to the General Cashier who shall:
 - (i) restrictively endorse the check "for deposit only" to the Nation operation's bank account;
 - (ii) initial the check;
 - (iii) date and time stamp the check;
 - (iv) immediately exchange the check for currency and coin in an amount equal to the amount for which the check is drawn; and
 - (v) forward redemption, consolidation and substitution checks to the Check Cashier and all checks to the Main Bank Cashier.
- (5) Cash equivalents shall only be accepted at the Cage by General Cashiers; however, promotional coupons may also be accepted at a gaming table if deposited into the drop box attached to such gaming table in accordance with uniform procedures established by the Nation gaming operation. Prior to acceptance of any cash equivalent from a patron, the General Cashier shall determine the validity of such cash equivalent by performing the necessary verification for each type of cash equivalent and such other procedures as may be required by the issuer of such cash equivalent. Prior to the acceptance of a cash equivalent made payable to the presenting patron, the General Cashier shall examine that patron's identification credentials to ensure the patron's identity and shall maintain documentation supporting that examination.
- (6) Prior to acceptance of a travelers check from a patron, the General Cashier shall verify its validity by:
 - (a) Requiring the patron to countersign the travelers check in his or her presence;
 - (b) Comparing the countersignature with the original signature on the travelers check;
 - (c) Examining the travelers check for any other signs of tampering, forgery or alteration; and

- (d) Performing any other procedures which the issuer of the travelers check requires in order to indemnify the acceptor against loss.
- (7) Prior to the acceptance of any Nation operation check from a patron, a General Cashier shall examine that patron's identification credentials to ensure the patron's identity and shall maintain documentation supporting that examination.
- (8) A person may obtain cash at the Cage to be used for gaming purposes by presenting a recognized credit card to a General Cashier. Prior to the issuance of cash to a person, the General Cashier shall verify through the recognized credit card company the validity of the person's credit card or shall verify through a recognized electronic funds transfer company which, in turn, verifies through the credit card company the validity of the person's credit card and shall obtain approval for the amount of cash the person has requested. The General Cashier shall then prepare such documentation as required by the Nation operation to evidence such transactions and to balance the imprest fund prior to the issuance of the cash.
- (9) The following procedures and requirements for Counter Checks shall be observed:
 - (a) Counter Checks shall be serially pre-numbered forms; each series of Counter Checks shall be used in sequential order, and the series numbers of all Counter Checks received by the Nation operation shall be accounted for by employees with no incompatible functions. The original and all copies of void Counter Checks shall be marked "VOID" and shall require the signature of the Pit Clerk.
 - (b) In the event that Counter Checks are manually prepared:
 - (i) each series of Counter Checks shall be a five-part form, at a minimum, which consists of an original, a redemption copy, an accounting copy, an issuance copy and acknowledgment copy and shall be attached in a book that will permit an individual slip in the series and its copies to be written upon simultaneously, while still contained in the book and that will allow the removal of the original and all duplicate copies; and

- (ii) access to the Counter Checks shall be maintained and controlled at all times by the Pit Clerks responsible for controlling of and accounting for the unused supply of Counter Checks, and the preparation of Counter Checks for a patron's signature.
 - (c) In the event Counter Checks are computer prepared, each series of Counter Checks shall be a four-part form, at a minimum, which consists of an original, a redemption copy, an issuance copy and acknowledgment copy and shall be inserted in a printer that will simultaneously print an original and duplicates and store, in machine readable form, all information printed on the original and duplicates; and discharge the original and duplicates. The stored data shall not be susceptible to change or removal by any personnel after preparation of a Counter Check.
- (10) For each Counter Check exchanged at a gaming table, the Pit Clerk shall:
- (a) Verify the patron's identity by either:
 - (i) obtaining the patron's signature on a form, which signature shall be compared to the original signature, or a computer generated facsimile thereof contained within the patron's credit file. The Pit Clerk shall sign the form indicating that the signature of the patron on the form appears to agree with the signature on the patron's credit file. Such form shall be attached to the accounting copy of the Counter Check exchanged by the patron prior to forwarding it to the Accounting Department in conformity with (14) below;
 - (ii) after the patron's identity has been verified by the Pit Clerk as required above, the requirements for subsequent verification of the patron's identity during the same shift may be satisfied by the Pit Clerk signing a form attesting to the patron's identity before each subsequent Counter Check is exchanged. The form shall include the patron's name and the serial number of the initial Counter Check exchanged by the patron. Such form shall be attached to the accounting copy of the Counter

Check prior to forwarding it to the Accounting Department in conformity with (14) below; or

- (iii) obtaining the attestation of a Gaming facility supervisor as to the identity of the patron. The Gaming facility supervisor shall sign a form attesting to the patron's identity. Such form shall be attached to the accounting copy of the Counter Check exchanged by the patron prior to forwarding it to the Accounting Department in conformity with (14) below.
- (b) Determine the patron's remaining credit limit from the Cage.
- (c) Prepare the Counter Check for a patron's signature by recording, at a minimum, on the face of the original and all duplicates of the Counter Check, with the exception of the acknowledgment copy which shall only have recorded on it, the game and table number, or in stored data, the following information:
 - (i) the name of the person exchanging the Counter Check;
 - (ii) the name of the patron's bank (required on the original copy only);
 - (iii) the current date and time;
 - (iv) the amount of the Counter Check expressed in numerals;
 - (v) the game and table number; and
 - (vi) the signature of the preparer or, if computer prepared, the identification code of the preparer.
- (d) Place an impression on the back of the original Counter Check a restrictive endorsement "for deposit only" to the Nation operation's bank account.
- (e) Present the original and all duplicate copies of the Counter Check to the patron for signature.
- (f) Receive the signed Counter Check directly from the patron; the issuance copy, which is the equivalent of a Check Credit Slip, of the Counter Check shall

be immediately and directly given to the Dealer or Boyperson. In no instance shall the chips or plaques be given to the patron prior to the receipt of the issuance copy of the Counter Check by the Dealer or Boyperson and,

- (i) the original, redemption, and acknowledgment copies of the Counter Check shall be expeditiously transported to the Cage where the original and redemption copies shall be maintained and controlled by the Check Bank Cashier;
 - (ii) the accounting copy of the Counter Check, if manually prepared, shall be maintained and controlled at all times by the Pit Clerk; and
 - (iii) the issuance copy of the Counter Check shall be deposited by the Dealer or Boyperson in the drop box immediately after the issuance of chips or plaques to the patron.
- (11) In the event the Fill Bank Cashier receives the original, redemption and acknowledgment copies of the Counter Check, the Fill Bank Cashier shall sign and time stamp the acknowledgment copy of the Counter Check and expeditiously return it to the Pit Clerk via a Security Department employee or pneumatic tube system and shall transfer the original and redemption copies of the Counter Check to the Check Cashier in return for properly signed documentation.
- (12) In the event the Check Cashier receives the original, redemption and acknowledgment copies of the Counter Check directly from the Pit Clerk, whether through the use of the pneumatic tube system or transported by a security department member the Check Cashier shall:
- (a) Sign and time stamp the acknowledgment copy and shall transmit it to the pit clerk via a Security Department employee or pneumatic tube system, and shall maintain the original and redemption copies of the Counter Check.
- (13) The acknowledgment copy of the Counter Check returned to the Pit Clerk shall be agreed to the accounting copy and maintained and controlled by the Pit Clerk.

- (14) At the end of the gaming activity each day, at a minimum, the following procedures and requirements shall be observed:
 - (a) The original and all copies of void Counter Checks and the accounting and acknowledgment copies of the Counter Check shall be forwarded by a representative of the Accounting or Security Department to the Accounting Department for agreement, on a daily basis, with the issuance copy of the Counter Check removed from the drop box or stored data.
 - (b) The redemption copy of a Counter Check maintained and controlled in conformity with (10)(f)(i) above shall be forwarded to the Accounting Department subsequent to the redemption, consolidation or deposit of the original Counter Check for agreement with the accounting and issuance copies of the Counter Check or stored data.

PROCEDURE FOR REDEMPTION, CONSOLIDATION OR SUBSTITUTION OF CHECKS SUBMITTED BY GAMING PATRONS.

- (1) The drawer of a Counter Check may redeem it by exchanging cash, cash equivalents, gaming chips, plaques, or any combination of another check, cash, equivalents, gaming chips or plaques. If a drawer has more than one Counter Check outstanding, such checks shall be redeemed in reverse chronological order (the most recently dated check shall always be redeemed first). If more than one check bears the same date, the drawer may choose the order in which he or she wishes to redeem the identically dated checks.
- (2) The drawer of a Counter Check may consolidate some or all Counter Checks by exchanging another Counter Check in an amount equal to the total of Counter Checks previously exchanged.
- (3) The drawer of a Counter Check may substitute a personal check for the Counter Check.
- (4) All consolidations, total or partial redemptions or substitutions of checks by gaming patrons shall be made at the General Cashiers' Cage. Consolidation or redemption of nongaming checks shall not be allowed.
- (5) No employee of the Nation operation or any other person acting on behalf of or under any arrangement with the

Nation operation shall accept any check or series of checks in redemption, consolidation or substitution of another check or checks for the purpose of avoiding or delaying the deposit of a check or checks in a bank for collection or payment within the time periods specified in these Standards.

- (6) Upon acceptance of cash or cash equivalents, gaming chips and plaques, or another check in redemption, consolidation or substitution of a check(s), the General Cashier shall immediately return to the gaming patron the check(s) being redeemed, consolidated or substituted. If such redemption, consolidation or substitution is accomplished by the acceptance of another check, the General Cashier accepting such check shall date and time stamp the check, place his initials on the check, and record on the check the serial number of the Counter Check(s) being redeemed, consolidated or replaced.

PROCEDURES FOR GRANTING CREDIT, AND RECORDING CHECKS EXCHANGED, REDEEMED OR CONSOLIDATED.

- (1) A credit file for each patron shall be prepared by a General Cage Cashier or Credit Department employee with no incompatible functions either manually or by computer prior to the gaming operation's approval of a patron's credit limit. All patron credit limits and changes thereto shall be supported by the information contained in the credit file. Such file shall contain a credit application form upon which shall be recorded, at a minimum, the following information provided by the patron:
 - (a) The patron's name;
 - (b) The address of the patron's residence;
 - (c) The number of years at that address;
 - (d) The telephone number at the patron's residence;
 - (e) Employment information including:
 - (i) the name of the patron's employer, or an indication of self employment or retirement;
 - (ii) type of business;
 - (iii) the patron's position;

- (iv) number of years employed;
 - (v) the patron's business address; and
 - (vi) the patron's business telephone number.
- (f) Banking information including:
- (i) the name and location of the patron's bank; and
 - (ii) the account number of the patron's personal checking account upon which the patron is individually authorized to draw and upon which all Counter Checks and all checks used for substitution, redemption or consolidation will be drawn. Checking accounts of sole proprietorships shall be considered as personal checking accounts. Partnership or corporate checking accounts shall not be considered personal checking accounts.
- (g) The credit limit requested by the patron;
- (h) The approximate amount of all outstanding indebtedness;
- (i) The amount and source of income and assets in support of the requested credit limit; and
- (j) The patron's signature indicating acknowledgment of the following statement, which shall be included at the bottom of every credit application form containing the information required to be submitted by the patron pursuant to this subsection: "I certify that I have reviewed all of the information provided above and that it is true and accurate. I authorize (insert the name of the Nation operation) to conduct such investigations pertaining to the above information as it deems necessary for the approval of my credit limit. I am aware that I may be subject to civil or criminal liability if any material information provided by me is willfully false."
- (2) A General Cage Cashier or Credit Department employee with no incompatible functions shall record the following information in the credit file prior to the gaming operation's approval of a patron's credit limit:

- (a) A physical description of the patron which shall include, but not be limited to, the following:
 - (i) date of birth;
 - (ii) height;
 - (iii) weight;
 - (iv) hair color; and
 - (v) eye color.
 - (b) The type of identification credentials examined containing the patron's signature and whether said credentials included a photograph or general physical description of the patron; and
 - (c) The signature of the General Cage Cashier or Credit Department employee with no incompatible functions indicating that the signature of the patron in the credit file appears to agree with the signature on the identification credentials presented by the patron and that the physical description of the patron appears to agree with the patron's actual appearance. The date and time of the signature of the General Cage Cashier or Credit Department employee with no incompatible functions shall be recorded, either mechanically or manually, contemporaneously with the transaction.
- (3) Prior to the Nation operation's approval of the patron's credit limit, a Credit Department employee with no incompatible functions shall:
- (a) Verify the address of the patron's residence;
 - (b) Verify the patron's outstanding indebtedness; and
 - (c) Verify the patron's personal checking account information which shall include, but not be limited to, the following:
 - (i) type of account (personal or sole proprietorship);
 - (ii) account number;
 - (iii) date the account was opened;

- (iv) average balance of the account for the last twelve months, if available (if this information is not available, then this shall be noted in the credit file);
 - (v) current balance in the account, if available (if this information is not available then this shall be noted in the credit file);
 - (vi) whether the patron can sign individually on the account; and
 - (vii) name and title of the person supplying the information.
- (4) All verifications performed by the Credit Department in (3) above together with accurate and verifiable information received from the Nation operation's Security and Surveillance Departments shall be recorded in the credit file and accompanied by the signature of the Credit Department employee who performed the required verifications or filed the relevant information. The date and time of the signature of the Credit Department representative shall be recorded, either mechanically or manually, contemporaneously with the transaction. The Credit Department shall fulfill the requirements of (3) above as follows:
- (a) Verification of the address of the patron's residence, as required by (3)(a) above, shall be satisfied by confirming the patron's address with a credit bureau or bank. If neither of these sources has the patron's address on file or will not provide the information, the Credit Department may use an alternative source which shall not include any identification credentials required in (2)(b) above or other documentation presented by the patron at the Nation operation. The Credit Department shall record the source of verification and the method by which such verification was performed in the patron's credit file. Verification of the patron's address may be performed telephonically.
 - (b) Verification of the patron's outstanding indebtedness, as required by (3)(b) above, shall be performed by contacting a consumer credit bureau which is reasonably likely to possess information concerning the patron, to the extent such consumer credit bureau is available. Such contact shall be considered a verification of the outstanding

indebtedness provided by the patron. If such contact is not immediately possible, the Credit Department may use an alternative source which has made the required contact. The Credit Department shall record the source of verification and the method by which such verification was performed in the patron's credit file. If either one or both of these credit bureaus do not have information relating to a patron's outstanding indebtedness, this shall be recorded in the patron's credit file. The verification may be performed telephonically prior to the credit approval, provided the Credit Department requests written documentation of all information obtained as soon as possible and includes such written documentation in the patron's credit file. All requests for written documentation shall be maintained in the patron's credit file until such documentation is obtained.

- (c) Verification of the patron's personal checking account information, as required by (3)(c) above, shall be performed by the Credit Department or a bank verification service directly with the patron's bank. If such information is not immediately available, the Credit Department may use an alternative source. The credit department shall record the source of verification and the method by which such was performed in the patron's credit file. The verification may be performed telephonically prior to the credit approval provided the Credit Department or bank verification service requests written documentation of all information obtained as soon as possible and such written documentation is included in the patron's credit file. All requests for written documentation shall be maintained in the patron's credit file until such documentation is obtained. If a bank verification service is used as a primary source of verification, the Credit Department shall, in addition to complying with any other requirement imposed by this section, record the date that the patron's personal checking account information was obtained from the bank by the service.
- (5) The credit limit, and any changes thereto, must be approved by any one or more of the individuals holding the job positions of General Manager/Chief Operating Officer, Vice President of Casino Operations, Director of Credit, Credit Manager, Assistant Credit Manager, Credit Shift Manager, Credit Executive or a Credit Committee

composed of Nation operation employees with no incompatible functions which may approve credit as a group but whose members may not approve credit individually unless such person is included in the job positions referenced above. The approval shall be recorded in the credit file and shall include:

- (a) Any other information used to support the credit limit and any changes thereto, including the source of the information, if such information is not otherwise recorded pursuant to this section;
 - (b) A brief summary of the key factors relied upon in approving or reducing the requested credit limit and any changes thereto;
 - (c) The reason credit was approved if derogatory information was obtained during the verification process; and
 - (d) The signature of the employee approving the credit limit. The date and time of the signature shall be recorded either mechanically or manually contemporaneously with the transaction.
- (5) Prior to approving a credit limit increase, an employee of the Credit Department shall:
- (a) Obtain a written request from the patron which shall include:
 - (i) date and time of the patron's request;
 - (ii) amount of credit limit increase requested by the patron; and
 - (iii) signature of the patron.
 - (b) Verify the patron's current Nation operation credit limits and outstanding balances;
 - (c) Verify the patron's outstanding indebtedness and personal checking account information, as required by (3) (b) and (3) (c) above, unless such procedures have been performed within the previous six months;
 - (d) Consider the patron's player rating based on a continuing evaluation of the amount and frequency of play subsequent to the patron's initial receipt of credit. The patron's player rating shall be readily available to representatives of the credit

department prior to their approving a patron's request for a credit limit increase. The information for a patron's player rating shall be recorded on a Player Rating Form by the Nation operation Credit Department or put directly into the Nation operation's computer system, which information shall include, but not be limited to, the following:

- (i) patron's name;
 - (ii) game and table number;
 - (iii) average bet;
 - (iv) approximate length of time played;
 - (v) rating as determined by the Gaming Facility Manager or his or her designee;
 - (vi) signature (or name, if computer system is used) of the gaming facility supervisor responsible for providing the patron's player rating information; and
 - (vii) date of observations.
- (e) Include the information and documentation required by paragraphs (a) through (c) above and the patron's player rating indicated at the time the credit increase is approved in the patron's credit file.
- (7) Credit limit increases may be approved without performing the requirements of (c) above if the increases are temporary and are noted as being for this trip only (TTO) in the credit file. Temporary increases shall be limited to two during any thirty (30) day period and the total amount of the temporary increases during that period shall not exceed ten (10) percent of the currently approved credit limit.
- (8) The Credit Department shall:
- (a) Comply with the requirements of either (b) or (c) below whenever:
 - (i) a patron's credit file has been inactive for a six month period; or

- (ii) a patron has failed to completely pay off his credit balance at least once within a six (6) month period; or
 - (iii) a check is returned to the Nation operation by a patron's bank; or
 - (iv) any information is received by the credit department which reflects negatively on the patron's continued credit worthiness; or
 - (v) the information in the patron's credit file which must be verified pursuant to (3)(a) through (3)(c) above, has not been verified for a twelve (12)-month period.
- (b) Reverify the patron's address, outstanding balances, outstanding indebtedness, and personal checking account information, as required by (3)(a) through (3)(c) above.
- (c) Suspend the patron's credit privileges. If a patron's credit privileges have been suspended, the procedures required by (3)(a) through (3)(c) above shall be performed before that patron's credit privileges are reinstated; provided, however, if the suspension is the result of the requirement of (3)(a)(iii) above, the gaming operation may alternatively reinstate the patron's credit privileges by complying with the requirements of (9) below.
- (9) Any patron having a check returned to the Nation operation unpaid by the patron's bank shall have his or her credit privileges suspended at the Nation operation until such time as the returned check has been paid in full or the reason for the derogatory information has been satisfactorily explained. All documentation obtained from any consumer credit bureau shall be maintained in the patron's credit file. If the Nation operation desires to continue the patron's credit privileges on the basis of a satisfactory explanation having been obtained for the returned check, it may do so if the Nation operation records the explanation for its decision in the credit file before accepting any further checks from the patron along with the signature of the Credit Department representative accepting the explanation.
- (10) All transactions affecting a patron's outstanding indebtedness to the Nation operation shall be recorded in

chronological order in the patron's credit file and credit transactions shall be segregated from the safekeeping deposit transactions. The following information shall be included:

- (a) The date, amount and check number of each Counter Check initially accepted from the patron;
 - (b) The date, amount and check number of each consolidation check and the check numbers of the checks returned to the patron;
 - (c) The date, method, amount and check number of each redemption transaction and the check number of the redeemed check returned to the patron;
 - (d) The date, amount and check number of each substitution transaction and the check number of the check returned to the patron;
 - (e) The date, amount and check number of each check deposited;
 - (f) The date, amount and check number of each check returned to the Nation operation by the patron's bank and the reason for its return;
 - (g) The outstanding balance after each transaction; and
 - (h) The date, amount and check number of any checks which have been partially or completely written off by the gaming operation and a brief explanation of the reason for such write-off.
- (11) A log of all Counter Checks exchanged and of all checks received for redemption, consolidation or substitution shall be prepared, manually or by computer, on a daily basis, by Check Cashiers and such log shall include, at a minimum, the following:
- (a) The balance of the checks on hand in the Cashier's Cage at the beginning of each shift;
 - (b) For checks initially accepted and for checks received for consolidation, redemption or substitution;
 - (i) the date of the check;
 - (ii) the name of the drawer of the check;

- (iii) the amount of the check;
 - (iv) the Counter Check serial number(s) for Counter check(s) received; and
 - (v) an indication as to whether the check was initially accepted or received in a redemption, consolidation or substitution.
- (c) For checks deposited, redeemed by patrons for cash or cash equivalents, gaming chips and plaques, or any combination thereof, consolidated or replaced:
- (i) the date on which the check was deposited, redeemed, consolidated or replaced;
 - (ii) the name of the drawer of the check;
 - (iii) the amount of the check;
 - (iv) the Counter Check serial number(s) for Counter Check(s) deposited, redeemed, consolidated or replaced; and
 - (v) an indication as to whether the check was deposited, redeemed, consolidated or replaced.
- (d) The balance of the check on hand in the Cashiers' Cage at the end of each shift.
- (12) A list of all Counter Checks on hand, and of all checks received for redemption, consolidation or substitution shall be prepared, manually or by computer, on a monthly basis, at a minimum, and shall include the following:
- (a) The date of the check;
 - (b) The name of the drawer of the check;
 - (c) The amount of the check; and
 - (d) The Counter Check serial number(s) for Counter Check(s) received.
- (13) At the end of gaming activity each day, at a minimum, the following procedures shall be performed:
- (a) The daily total of the amounts of checks initially recorded as described in (11)(b) above shall be agreed to the daily total of Counter Checks issued;

- (b) The daily total of the checks indicated as deposited on the log required by (11)(c) above shall be agreed by employees with no incompatible functions to the bank deposit slips corresponding to such check; and
- (c) The balance required by (11)(d) above shall be agreed to the total of the checks on hand in the cashiers' cage.
- (14) All information recorded in the credit file shall be in accordance with the system of internal accounting control contained in these Standards.
- (15) All actions to establish or modify a patron's credit limit and all credit transactions as recorded in the Cashier's Cage Department shall be reported in writing or by computer transmission to the Surveillance Department as soon as practicable, within the same gaming day.

1. PROCEDURE FOR DEPOSITING CHECKS RECEIVED FROM GAMING PATRONS.

- (1) All checks, unless redeemed or consolidated prior to the time requirements herein, received from gaming patrons in conformity with these Standards shall be deposited in the Nation operation's bank account in accordance with the Nation operation's normal business practice, but in no event later than:
 - (a) The banking day after the date of the check for a non-gaming check;
 - (b) Seven calendar days after the date of the check for a check in the amount of \$1,000 or less;
 - (c) Fourteen calendar days after the date of the check for a check in an amount greater than \$1,000 but less than or equal to \$5,000; or
 - (d) Forty-five calendar days after the date of the check for a check in an amount greater than \$5,000.
- (2) All checks received for consolidation in conformity with these Standards shall be deposited in the Nation operation's bank account within:
 - (a) Seven calendar days after the date of the initial check for a consolidating check where the consolidating check is in an amount of \$1,000 or less;

- (b) Fourteen calendar days after the date of the initial check for a consolidating check where the consolidating check is in an amount greater than \$1,000 but less than or equal to \$5,000; or
 - (c) Forty-five calendar days after the date of the initial check for a consolidating check where the consolidating check is in an amount greater than \$5,000.
- (3) All checks received as part of a redemption in conformity with these Standards shall be deposited in the Nation operation's bank account within:
- (a) Seven calendar days after the date of the initial check if the initial check is in the amount of \$1,000 or less;
 - (b) Fourteen calendar days after the date of the initial check if the initial check is in an amount greater than \$1,000 but less than or equal to \$5,000; or
 - (c) Forty-five calendar days after the date of the initial check if the initial check accepted is in an amount greater than \$5,000.
- (4) In computing a time period prescribed by this section, the last day of the period shall be included unless it is a Saturday, Sunday, or a State or Federal holiday, in which event the time period shall run until the next business day.
- (5) In the event of a series of consolidation or redemption transactions with a patron, the initial check shall be the earliest dated check returned to the patron in the first of the series of consolidation or redemption transactions.
- (6) Any check deposited into a bank will not be considered cleared until a reasonable time has been allowed for such check to clear the bank.

PROCEDURE FOR COLLECTING AND RECORDING CHECKS RETURNED TO THE GAMING OPERATION AFTER DEPOSIT.

- (1) All dishonored checks returned by a bank ("returned checks") after deposit shall be returned directly to, and controlled by, Accounting Department employees who shall have no incompatible functions.

- (2) No person other than one employed in a separate collection section within the Accounting Department and one who has no incompatible functions may engage in efforts to collect returned checks except that an attorney-at-law representing the Nation operation may bring action for such collection. Any verbal or written communication with patrons regarding collection efforts, shall be documented in the collection section.
- (3) Continuous records of all returned checks shall be maintained by Accounting Department employees with no incompatible functions. Such records shall include, at a minimum, the following:
 - (a) The date of the check;
 - (b) The name and address of the drawer of the check;
 - (c) The amount of the check;
 - (d) The date(s) the check was dishonored;
 - (e) The Counter Check serial number for Counter Checks; and
 - (f) The date(s) and amount(s) of any collections received on the check after being returned by a bank.
- (4) A check dishonored by a bank may be immediately redeposited if there is sufficient reason to believe the check will be honored the second time.
- (5) Statements shall be sent to patrons, by Accounting Department employees with no incompatible functions, immediately upon initial receipt of a returned check or immediately upon receipt of a check returned for a second time if the check was immediately redeposited pursuant to (5) above, and on a quarterly basis thereafter until collection efforts are discontinued and such statements shall include, but not be limited to, the following:
 - (a) The name and address of the drawer;
 - (b) The date of the check;
 - (c) The amount of the check; and
 - (d) The date(s) and amount(s) of any collections received on the check after being returned by the bank.

- (6) Patrons to whom statements are sent shall be advised of a return address and department to which replies shall be sent.
- (7) Employees with no incompatible functions shall receive directly and shall initially record all such collections.
- (8) Copies of statements and other documents supporting collection efforts shall be maintained and controlled by Accounting Department employees.
- (9) A record of all collection efforts shall be recorded and maintained by the collection area within the Accounting Department.

PROCEDURE FOR ACCEPTING CASH AT GAMING TABLES.

- (1) The cash shall be spread on the top of the gaming table by the Dealer or Boxperson accepting it in full view of the patron who presented it and the Gaming Facility Supervisor specifically assigned to such gaming table;
- (2) The amount of cash shall be announced by the Dealer or Boxperson accepting it in a tone of voice calculated to be heard by the patron who presented the cash and the Supervisor specifically assigned to such gaming table; and
- (3) Immediately after an equivalent amount of gaming chips or plaques has been given to the patron, the cash shall be taken from the top of the gaming table and placed by the Dealer or Boxperson into the drop box attached to the gaming table.

ACCEPTANCE OF GRATUITIES FROM PATRONS.

- (1) No Casino employee shall solicit and no casino employee directly concerned with Management, Accounting, Security and Surveillance Departments, shall accept any tip or gratuity from any player or patron at the Casino where he or she is employed.
- (2) The Nation operation shall establish a procedure for accounting for all tips received by employees.
- (3) Upon receipt from a patron of a tip, a Dealer at a gaming table shall tap the table or wheel and extend his or her arm to show the table Inspector that he or she has received a tip and immediately deposit such tip in the

tip box. Tips received shall be pooled among employees in such manner as determined by the Nation operation.

RULES FOR TABLE GAMES.

Only those table games appearing in Appendix A of this Compact may be conducted. The written rules of each table game (based on the rules of operation described in Appendix A) relevant to the method of play and odds paid to winning bets shall be submitted to the Commission and the Board and shall be both visibly displayed and available in pamphlet form for patrons of the Gaming facility. Betting limits applicable to any gaming table shall be displayed at such gaming table. The published rules of each game shall assure that the game will be operated in a manner which is honest and fair to gaming patrons. The Nation will provide the Commission and the Board with ten days advance notice of any modification to the rules of any approved game and will provide adequate notice to gaming patrons to notify them of the applicable rules in effect. Summaries of the rules of each table game (based on the rules of operation described in Appendix A) relevant to the method of play and odds paid to winning bets shall be visibly displayed in the gaming facility and betting limits applicable to any gaming table shall be displayed at such gaming table.

- (1) Specifications applicable to Gaming Equipment:
 - (a) Physical characteristics of chips and plaques; and
 - (b) Physical characteristics of the table games described in Appendix A of this Compact.
- (2) Rules of the Games for each game authorized by Appendix A must include:
 - (a) Procedures of play;
 - (b) Minimum and maximum permissible wagers;
 - (c) Shuffling, cutting and dealing techniques, as applicable; and
 - (d) Payout odds on each form of wager;

TABLE INVENTORIES AND PROCEDURE FOR OPENING TABLES FOR GAMING.

- (1) Whenever a gaming table is opened for gaming, operations shall commence with an amount of gaming chips, coins and

plaques to be known as the "Table Inventory" and the Nation operation shall not cause or permit gaming chips, coins or plaques to be added to or removed from such table inventory during the gaming day except:

- (a) In exchange for cash, check, or credits presented by gaming patrons in conformity with the provisions of these Standards;
 - (b) In payment of winning wagers and collection of losing wagers made at such gaming table;
 - (c) In exchange for gaming chips and plaques received from a patron having an equal aggregate face value; and
 - (d) In conformity with the fill and credit procedures described in these Standards.
- (2) Each Table Inventory and the Table Inventory Slip prepared in conformity with the procedures set forth in these Standards shall remain at the table during non-gaming hours in a locked, clear container or cover which shall be clearly marked on the outside with the game and the gaming table number to which it corresponds. The information on the Table Inventory Slip shall be visible from the outside of the container or cover. All containers, if removed from a table, shall be stored in the Cashier's Cage during non-gaming hours.
 - (3) The keys to the locked containers containing the Table Inventories shall be maintained and controlled by the Gaming Facility Department in a secure place and shall at no time be made accessible to any Cashier's Cage personnel or to any person responsible for transporting such table inventories to or from the gaming tables.
 - (4) Whenever gaming tables are to be opened for gaming activity, the locked container securing the Table Inventory and the Table Inventory Slip shall be unlocked by the Gaming Facility Supervisor assigned to such table.
 - (5) A Dealer or Boxperson at the gaming table shall count the contents of the container in the presence of the Gaming Facility Supervisor assigned to such table and shall agree with the count on the Opener removed from the container.
 - (6) Signatures attesting to the accuracy of the information on the Opener shall be placed on such opener by the Dealer or Boxperson at the table and the Gaming Facility

Supervisor that observed the Dealer or Boxpersion count the contents of the container.

- (7) When discrepancies arise between the amount shown on the Opener and the amounts counted, the Gaming Facility Supervisor will immediately notify:
 - (a) The Assistant Gaming Facility Shift Manager, the Gaming Facility Shift Manager, the Assistant Gaming Facility Manager or the Gaming Facility Manager;
 - (b) The Security Department; and
 - (c) A Commission Inspector.
- (8) The Supervisor, in the presence of a Security Department Representative and a Commission Inspector, will then have the Dealer or Boxpersion recount the table inventory and prepare a correct Table Inventory Slip to reflect the actual, verified table inventory. The Supervisor will then write "Correct Opener" across the top of the verified new Table Inventory Slip and "Incorrect Opener" across the top of the incorrect Opener. The Supervisor and the Dealer or Boxpersion will then follow the proper signature procedures for the "Correct Opener". The Assistant Gaming Facility Shift Manager or the Gaming Facility Shift Manager above will then sign both the "Correct Opener" and "Incorrect Opener" Table Inventory Slips. The Security Department representative will prepare the standard security report on the incident and will make copies of the correct Opener, incorrect Opener and the security report for immediate distribution to the Security Department, the Commission and the Board. The Supervisor will then attach the correct Opener to the incorrect Opener and observe the Dealer or Boxpersion place them in the Drop Box. At the same time, the Supervisor will attach the correct and incorrect accounting copies of the Opener and then forward them to the Pit Clerk.
- (9) After the contents of the container and the signing of the Opener, such slip shall be immediately deposited in the drop box attached to the gaming table by the Dealer or Boxpersion after the opening of such table.

PROCEDURE FOR DISTRIBUTING GAMING CHIPS, COINS AND PLAQUES TO GAMING TABLES.

- (1) A request for Fill ("Request") shall be prepared by a Gaming Facility Supervisor to authorize the preparation of a Fill Slip ("Fill") for the distribution of gaming chips, coins and plaques to gaming tables. The request shall be prepared in a duplicate form and restricted to Gaming Facility Supervisors.
- (2) On the original and duplicate of the request, the following information, at a minimum, shall be recorded:
 - (a) The date, time, and shift of preparation;
 - (b) The denomination of gaming chips, coins or plaques to be distributed to the gaming tables;
 - (c) The total amount of each denomination of gaming chips, coins or plaques to be distributed to the gaming tables;
 - (d) The game and table number to which the gaming chips, coins or plaques are to be distributed;
 - (e) The signature of the Gaming Facility Supervisor; and
 - (f) The signature of the Security Department employee.
- (3) After preparation of the request, the original of such request shall be transported directly to the Cashier's Cage.
- (4) The duplicate copy of the request shall be placed by the Dealer or Boxperson in public view on the gaming table to which the gaming chips, coins or plaques are to be received. Such duplicate copy shall not be removed until the chips, coins and plaques are received at which time the request and fill are deposited in the drop box.
- (5) If Fills are computer prepared and the input data required for preparation of a Fill is entered by, and ability to input is restricted to, a Gaming Facility Supervisor and a Gaming Facility Clerk, and the printing of the Fill, which shall be in the Cashier's Cage, is a direct result of such input, subsections (1), (2), (3) and (4) of this section may be ignored.
- (6) A Fill shall be prepared by a Chip Bank Cashier or, if computer prepared, by a Chip Bank Cashier, a Gaming

Facility Supervisor, or a Gaming Facility Clerk whenever gaming chips, coins and plaques are distributed to the gaming tables from the Cashier's Cage.

- (7) Fills shall be serially pre-numbered forms, and each series of fills shall be used in sequential order, and the series numbers of all Fills received by a Gaming facility shall be accounted for by employees with no incompatible functions. All the originals and duplicates of void fills shall be marked "VOID" and shall require the signature of the preparer.
- (8) The following procedures and requirements shall be observed with regard to Fills:
 - (a) Each series of Fills shall be in triplicate form to be kept in a locked dispenser that will permit an individual slip in the series and its copies to be written upon simultaneously while still located in the dispenser, and that will discharge the original and duplicate while the triplicate remains in a continuous, unbroken form in the dispenser;
 - (b) Access to the triplicate copy of the form shall be maintained and controlled at all times by employees responsible for controlling and accounting for the unused supply of Fills, placing Fills in the dispensers, and removing from the dispensers, each day, the triplicate copies remaining therein. These employees shall have no incompatible functions.
- (9) On the original, duplicate and triplicate copies of the Fill, the preparer shall record, at a minimum, the following information:
 - (a) The denomination of the gaming chips, coins or plaques being distributed;
 - (b) The total amount of each denomination of gaming chips, coins or plaques being distributed;
 - (c) The total amount of all denominations of gaming chips, coins or plaques being distributed;
 - (d) The game and table number to which the gaming chips, coins or plaques are being distributed;
 - (e) The date, time and shift during which the distribution of gaming chips, coins or plaques occur; and

- (f) The signature of the preparer.
- (10) Upon preparation, the time of preparation of the Fill shall be recorded on the original and the duplicate.
- (11) All gaming chips, coins or plaques distributed to the gaming tables from the Cashier's Cage shall be transported directly to the gaming tables from the Cashier's Cage by a Security Department employee who shall agree with the request to the Fill and sign the original of the request, maintained at the Cashier's Cage, before transporting the gaming chips, coins or plaques and the original and duplicate of the Fill for signature.
- (12) Signatures attesting to the accuracy of the information contained on the original and duplicate of the Fills shall be, at a minimum, of the following personnel at the following times:
 - (a) The Fill Bank Cashier upon preparation;
 - (b) The Security Department employee transporting the gaming chips, coins or plaques to the gaming table upon receipt from the cashier of gaming chips, coins or plaques to be transported;
 - (c) The Dealer or Boxperson at the gaming table upon receipt at such table from the Security Department Member of gaming chips, coins or plaques at such table; and
 - (d) The Gaming Facility Supervisor assigned to the gaming table upon receipt of the gaming chips, coins or plaques at such table.
- (13) Upon meeting the signature requirements as described in paragraph (11), the Security Department employee that transported the gaming chips, coins or plaques and the original and duplicate copies of the Fill to the table, shall observe the immediate placement by the Dealer or Boxperson of the duplicate Fill and duplicate request in the drop box attached to the gaming table to which the gaming chips, coins or plaques were transported and return the original Fill to the Fill Bank where the original Fill and request shall be maintained together and controlled by employees independent of the Gaming Facility Department.

- (14) The original and duplicate "Void" Fills, the original request and the original Fill, maintained and controlled in conformity with paragraph (12) shall be forwarded to:
 - (a) The count team for agreement with the duplicate copy of the fill and duplicate copy of the request removed from the drop box, after which the original and duplicate copy of the request and the original and duplicate copy of the Fill shall be forwarded to the Accounting Department for agreement, on a daily basis, with the triplicate; or
 - (b) The Accounting Department for agreement, on a daily basis, with the duplicate Fill and duplicate copy of the request removed from the drop box and the triplicate.

PROCEDURE FOR REMOVING GAMING CHIPS AND COINS FROM GAMING TABLES.

- (1) A request for Credit ("Request") shall be prepared by a Gaming Facility Supervisor to authorize the preparation of a Credit ("Credit") for the removal of gaming chips, coins and plaques to the Cashier's Cage. The Request shall be in duplicate form and access to such form shall, prior to use, be restricted to Gaming Facility Supervisors.
- (2) On the original and the duplicate copy of the Request the following information, at a minimum, shall be recorded:
 - (a) The date, time and shift of preparation;
 - (b) The denomination of gaming chips, coins or plaques to be removed from the gaming table;
 - (c) The total amount of each denomination of gaming chips, coins or plaques to be removed from the gaming table;
 - (d) The game and table number from which the gaming chips, coins or plaques are to be removed; and
 - (e) The signature of the Gaming Facility Supervisor and Dealer or Boxperson at the gaming from which gaming chips, coins or plaques are to be removed.
- (3) Immediately upon preparation of a Request and transfer of gaming chips, coins or plaques to a Security Department employee, a Gaming Facility Supervisor shall obtain on

the duplicate copy of the Request, the signature of the Security Department employee to whom the gaming chips, coins or plaques were transferred, and the Dealer or Boxperson shall place the duplicate copy in public view on the gaming table from which the gaming chips, coins or plaques were removed, and such Request shall not be removed until a credit is received from the Fill Bank at which time the Request and Credit are deposited in the drop box.

- (4) The original of the Request shall be transported directly to the Cashier's Cage by the Security Department employee who shall at the same time transport the gaming chips, coins or plaques removed from the gaming table.
- (5) A Credit shall be prepared by a Chip Bank Cashier or, if computer prepared, by a Chip Bank Cashier, a Gaming Facility Supervisor, or a Gaming Facility Clerk whenever gaming chips, coins or plaques are removed from the gaming tables to the Cashier's Cage.
- (6) Credits shall be serially pre-numbered forms, each series of Credits shall be used in sequential order, and the series number of all Credits received by a Gaming Facility Cashier shall be accounted for by employees with no incompatible functions. All original and duplicate copies of Credits shall be marked "VOID" and shall require the signature of the preparer.
- (7) The following procedures and requirements shall be observed with regard to credits:
 - (a) Each series of Credits shall be a three part form and shall be inserted in a locked dispenser that will permit an individual slip in the series and its copies to be written upon simultaneously while still locked in the dispenser, and that will discharge the original and duplicate while the triplicate remains in a continuous, unbroken form in the dispenser.
 - (b) Access to the triplicate shall be maintained and controlled at all times by employees responsible for controlling and accounting for the unused supply of Credits, placing Credits in the dispensers, and removing from the dispensers, each day, the triplicates remaining therein. These employees shall have no incompatible functions.

- (8) On the original, duplicate and triplicate copies of a Credit, the preparer shall record, at a minimum, the following information:
 - (a) The denomination of the gaming chips, coins or plaques removed from the gaming table to the Cashier's Cage;
 - (b) The total amount of each denomination of gaming chips, coins or plaques removed from the gaming table to the Cashier's Cage;
 - (c) The total amount of all denominations of gaming chips, coins, or plaques removed from the gaming table to the Cashier's Cage;
 - (d) The game and table number from which the gaming chips, coins or plaques were removed;
 - (e) The date, time and shift during which the removal of gaming chips, coins or plaques occurs; and
 - (f) The signature of the preparer.
- (9) Upon preparation, the time of preparation of the Credit shall be recorded on the original and duplicate copy.
- (10) Signatures attesting to the accuracy of the information contained on the original and the duplicate copy of a Credit shall be, at a minimum, the following personnel at the following times:
 - (a) The Fill Bank Cashier upon preparation;
 - (b) The Security Department employee transporting the gaming chips, coins and plaques to the Cashier's Cage;
 - (c) The Dealer or Boxperson at the gaming table upon receipt at such table from the Security Department employee; and
 - (d) The Gaming Facility Supervisor assigned to the gaming table upon receipt at such table.
- (11) Upon meeting the signature requirements as described in paragraph (10), the Security Department employee transporting the original and duplicate copies of the Credit to the gaming table, shall observe the immediate placement by the Dealer or Boxperson of the duplicate copies of the Credit and Request in the drop box attached

to the gaming table from which the gaming chips, coins or plaques were removed. The Security Department employee shall expeditiously return the original Credit to the Fill Bank where the original of the Credit and Request shall be maintained together, and controlled by employees independent of the Gaming Facility Department.

- (12) The original and duplicate copies of "Void" Credits and the original Request and Credit, maintained and controlled in conformity with paragraph (11) shall be forwarded to:
 - (a) The count team for agreement with the duplicate Credit and the duplicate Request removed from the drop box, after which the Request and the original and duplicate Credit shall be forwarded to the Accounting Department for agreement, on a daily basis, with the triplicate; or
 - (b) The Accounting Department for Agreement, on a daily basis, with the duplicate copies of the Credit and Request removed from the drop box and the triplicate.

PROCEDURE FOR SHIFT CHANGES AT GAMING TABLES.

- (1) Whenever gaming tables are to remain open for gaming activity at the conclusion of a shift, the gaming chips, coins and plaques remaining at the gaming tables at the time of the shift change shall be counted by either the Dealer or Boxperson assigned to the outgoing shift and the Dealer or Boxperson assigned to the incoming shift, or the Dealer or Boxperson at the gaming table at the time of a drop box shift change which does not necessarily coincide with an employee shift change. The count shall be observed by the Gaming Facility Supervisor at the table game at the time of a drop box shift change.
- (2) The gaming chips, coins and plaques counted shall be recorded on the Table Inventory Slip by the Gaming Facility Supervisor at the gaming table of the outgoing shift or the Gaming Facility Supervisor at the gaming table at the time of the drop box shift change.
- (3) Table Inventory Slips shall be three-par serially pre-numbered forms and on the original of the slip ("Closer"), the duplicate of the slip ("Opener"), and on the triplicate, which is maintained and controlled by the Accounting Department, the Gaming Facility Supervisor shall record the following:

- (a) The date and identification of the shift-ended;
 - (b) The game and table number; and
 - (c) The total value of each denomination of gaming chips, coins, and plaques remaining at the table.
- (4) Signatures attesting to the accuracy of the information recorded on the Table Inventory Slips shall be of either the Dealer or Boxperson and the Gaming Facility Supervisor at the incoming and outgoing shifts or the Dealer or Boxperson and the Gaming Facility Supervisor at the gaming table at the time of a drop box shift change.
 - (5) Upon meeting the signature requirements as described in paragraph (4), the Closer shall be deposited in the drop box that is attached to the gaming table immediately prior to the change of shift at which time the drop boxes shall then be removed and the opener shall be deposited in the replacement drop box that is to be attached to the gaming tables immediately following the change of shift.

PROCEDURE FOR CLOSING GAMING TABLES.

- (1) Whenever the gaming activity at each gaming table is concluded, the gaming chips, coins and plaques on the gaming table shall be counted by the Dealer or Boxperson at the gaming table and observed by a Gaming Facility Supervisor at the gaming table, and the table float shall be brought back to the imprest value.
- (2) The gaming chips, coins and plaques counted shall be recorded on a Table Inventory Slip by the Gaming Facility Supervisor at the gaming table.
- (3) Table Inventory Slips shall be three-part serially pre-numbered forms and on the original of the slip (Closer), the duplicate of the slip (Opener), and on the triplicate, which is maintained and controlled by the Accounting Department, the Gaming Facility Supervisor shall record the following:
 - (a) The date and identification of the shift ended;
 - (b) The game and table number;
 - (c) The total value of each denomination of gaming chips, coins and plaques remaining at the tables; and

- (d) The total value of all denominations of gaming chips, coins and plaques remaining at the gaming table.
- (4) Signatures attesting to the accuracy of the information recorded on the Table Inventory Slips at the time of closing the gaming tables shall be of the Dealer or Boxperson and the Gaming Facility Supervisor at the gaming table who observed the Dealer or Boxperson count the contents of the Table Inventory.
- (5) Upon meeting the signature requirements specified in paragraph (4), the Closer shall be deposited in a drop box attached to the gaming table immediately prior to the closing of the table.
- (6) Upon meeting the signature requirements specified in paragraph (4), the Opener and the gaming chips remaining at the table shall be locked in the clear container provided for that purpose as specified in these Standards.
- (7) At the end of each gaming day, if the locked containers are transported to the Cashier's Cage, a Cage Cashier shall determine that all locked containers have been returned or, if the locked containers are secured to the gaming table, a Gaming Facility Supervisor shall account for all the locked containers.

COUNT ROOM: CHARACTERISTICS.

- (1) There shall be a room specifically designated for counting the contents of drop boxes which shall be known as the Count Room. The Count Room shall be designed and constructed to provide maximum security for the materials housed therein and maximum security shall be maintained during the transport of funds between the Count Room and the Cashier's Cage.
- (2) The Count Room shall be designed and constructed to provide maximum security for the materials housed therein and for the activities conducted therein, to include at a minimum, the following:
 - (a) A metal door equipped with two separate locks securing the interior of the count room, the keys to which shall be different from each other and from the keys to the locks securing the contents of the drop boxes, and one key shall be maintained and controlled by the Security Department in a secure

area within the Security Department, access to which may be gained only by a designated Security Department employee, and the other key maintained and controlled by the Commission;

- (b) The Security Department shall establish a sign-out procedure for all keys removed from the Security Department; and
 - (c) An alarm device connected to the entrance of the Count Room in such a manner as to cause a signalling to the monitors of the Closed Circuit Television System in the Gaming facility's Surveillance Monitor Room whenever the door to the Count Room is opened.
- (3) Located within the Count Room shall be:
- (a) A table constructed of clear glass or similar material for the emptying, counting and recording of the contents of the drop boxes which shall be known as the "Count Table";
 - (b) Closed Circuit Television Cameras and microphones wired to monitoring rooms capable of, but not limited to, the following:
 - (i) effective and detailed audio-video monitoring of the entire count process;
 - (ii) effective, detailed video-monitoring of the count room, including storage cabinets or trolleys used to store drop boxes; and
 - (iii) audio-video taping of the entire count process and any other activities in the count room.

PROCEDURE FOR COUNTING AND RECORDING CONTENTS OF DROP BOXES.

- (1) The contents of drop boxes shall be counted and recorded in the Count Room in conformity with these Standards.
- (2) The Nation operation shall notify the Commission and the Board whenever the contents of drop boxes removed from gaming tables are to be counted and recorded, which, at a minimum, shall be once each gaming day.
- (3) The opening, counting and recording of the contents of drop boxes shall be performed in the presence of Inspectors of the Commission and by those employees

assigned by the Nation operation for the conduct of the count ("Count Team") with no incompatible functions. To gain entrance to the Count Room, the Inspector may be required to present an official identification card containing his photograph issued by the Commission.

- (4) Immediately prior to the opening of the drop boxes, the doors to the Count Room shall be securely locked and except as otherwise authorized by this Standard, no person shall be permitted to enter or leave the Count Room, except during a normal work break or in an emergency, until the entire counting, recording and verification process is completed.
- (5) Immediately prior to the commencement of the count, one count team member shall notify the person assigned to the Closed Circuit Television monitoring station in the establishment that the count is about to begin, after which such a person shall make an audio-video recording, with the time and date inserted thereon, of the entire counting process which shall be retained by the Surveillance Department under the procedures for audio-video tapes provided for in Section 6 of this Appendix.
- (6) Procedures and requirements for conducting the Count shall be the following:
 - (a) As each drop box is placed on the count table, one count team member shall announce, in a tone of voice to be heard by all persons present and to be recorded by the audio recording device, the game, table number, and shift marked thereon;
 - (b) The contents of each drop box shall be emptied and counted separately on the count table, which procedures shall be at all times conducted in full view of the Closed circuit Television cameras located in the Count Room;
 - (c) Immediately after the contents of a drop box are emptied onto the count table, the inside of the drop box shall be held up to the full view of a Closed Circuit Television Camera, and shall be shown to at least one other count team member and the Commission Inspector to confirm that all contents of the drop box have been removed, after which the drop box shall be locked and placed in the storage area for drop boxes;
 - (d) The contents of each drop box shall be segregated by a count team member into separate stacks on the

count table by denominations of coin and currency and, by type of form, record or document;

- (e) Each denomination of coin and currency shall be counted separately by at least two count team members who shall place individual bills and coins of the same denomination on the count table in full view of the Closed Circuit Television cameras, and such count shall be observed and the accuracy confirmed orally or in writing, by at least one other count team member;
- (f) As the contents of each drop box are counted one count team member shall record or verify on a Master Game Report, by game, table number, and shift, the following information:
 - (i) the total amount of currency and coin counted;
 - (ii) the amount of the Opener;
 - (iii) the amount of the Closer;
 - (iv) the serial number and amount of each Counter Check;
 - (v) the total amount of all Counter Checks;
 - (vi) the total amount of all promotional coupons;
 - (vii) the serial number and amount of each Fill;
 - (viii) the total amount of all Fills;
 - (ix) the serial number and amount of each Credit;
 - (x) the total amount of all Credits; and
 - (xi) the Win or Loss.
- (g) After the contents of each drop box have been counted and recorded, one member of the count team shall record by game and shift, on the Game Master Game Report, the total amounts of currency and coin, promotional coupons, Table Inventory Slips, Counter Checks, Fills and Credits counted, and Win or Loss, together with such additional information as may be required on the Master Game report by the Nation operation;

- (h) Notwithstanding the requirements of sub-paragraphs (f) and (g), if the Nation operation's System Of Accounting and Internal Controls provides for the recording on the Master Game Report of Fills, Credits, and Table Inventory Slips by Cage Cashiers prior to the commencement of the count, a count team member shall compare for agreement the serial numbers and totals of the amounts recorded thereon to the Fills, Credits, and Table Inventory Slips removed from the drop boxes;
 - (i) Notwithstanding the requirements of sub-paragraphs (f) and (g), if the Nation operation's System of Accounting and Internal Controls provides for the count team functions to be comprised only of counting and recording currency and coin, Credits and Counter Checks, Accounting Department employees with no incompatible functions shall perform all other counting, recording and comparing duties herein;
 - (j) After completion and verification of the Master Game Report, each count team member and the Inspectors of the Commission, shall sign the report attesting to the accuracy of the information recorded thereon;
 - (k) At no time after the Inspector has signed the Master Game Report shall any change be made to it without prior written approval of the Commission.
- (7) Procedures and requirements at the conclusion of the count for each gaming shift shall be the following:
- (a) All cash removed from each drop box after the initial count shall be presented in the count room by a count team member to a Main Bank Cashier who, prior to having access to the information recorded on the Master Game Report and in the presence of the count team and the Inspectors, shall recount, either manually or mechanically, the cash received, after which the Inspector shall sign the report evidencing his presence during the count and the fact that both the Main Bank Cashier and Count Team have agreed on the total amount of cash counted;
 - (b) The issuance copies of Counter Checks shall be forwarded directly to the Accounting Department;
 - (c) The top copy of the Master Game Report, after signing, and the requests for Fills, the Fills, the

requests for Credits, the Credits, the Promotional Coupons and the issuance copies of Counter Checks and the Table Inventory Slips removed from drop boxes shall be transported directly to the Accounting Department and shall not be available to any Cashier's Cage personnel;

- (d) A duplicate of the Master Game Report, but no other document referred to in this Standard whatsoever, shall be retained by the Inspector; and
 - (e) If the Nation operation's System of Accounting and Internal Controls does not provide for the forwarding from the Main Bank Cashier's Cage of the duplicate of the Fills, Credits, Request for Credits, Request for Fills, such documents recorded or to be recorded on the Master Game Report shall be transported from the count room directly to the Accounting Department.
- (8) The originals and copies of the Master Game Report, Request for Fills, Fills, Request for Credits, and Table Inventory Slips shall on a daily basis, in the Accounting Department be:
- (a) Compared for agreement with each other, on a test basis, by persons with no recording responsibilities and to triplicates or stored data;
 - (b) Reviewed for the appropriate number and propriety of signatures on a test basis;
 - (c) Accounted for by series numbers, if applicable;
 - (d) Tested for proper calculation, summarization, and recording;
 - (e) Subsequently recorded; and
 - (f) Maintained and controlled by the Accounting Department.

SIGNATURES.

- (1) Signatures shall:
 - (a) Be, at a minimum, the signer's first initial and last name;

- (b) Be immediately adjacent to or above the clearly printed or pre-printed, title of the signer and his or her License Number; and
 - (c) Signify that the signer has prepared forms, records, and documents, and/or authorized, observed, and/or participated in a transaction to a sufficient extent to attest to the accuracy of the information recorded thereon, in conformity with these Standards and the Nation operation's System of Accounting and Internal Control.
- (2) Signature records shall be prepared for each person required by these Standards to sign or initial forms, records, and documents and shall include specimens of signatures and initials and titles of signers. Such signature records shall be maintained on a dated Signature card file, alphabetically by name, and securely stored within the Accounting Department. The signature records shall be adjusted, on a timely basis to reflect changes of personnel.

APPENDIX C

Chart of Accounts

The Oneida Indian Nation of New York ("Nation"), or any management contractor of a Nation gaming operation operating under the authority of the Nation, shall maintain complete and accurate records of all transactions relating to the revenues and costs of the Nation gaming facility. The records shall be maintained for a period of seven (7) years from their respective dates of initiation and shall be maintained in secure storage on Nation land.

The forms of such accounts shall be consistent with Generally Accepted Accounting Principles and provide for effective disclosure of financial information. Based on these records, financial statements shall be prepared after the end of each fiscal year presenting the financial position, results of operations, and changes in net worth and cash flow together with a comparison to the previous fiscal year. These statements shall serve as the basis for determining the net profit or loss of Nation gaming operations. An annual audit of the financial statements shall be conducted by a professionally qualified Independent Certified Public Accountant using generally accepted auditing standards. The parties shall mutually agree upon a list of accounting firms with experience in auditing gaming facilities from which the Nation may select one. The Nation agrees to provide the State with copies of its engagement letter with the accounting firm, the management representatives' letter and any relevant lawyers' contingency letters.

The annual financial statements shall be prepared and issued not later than ninety (90) days after the close of the fiscal year and must be certified by the Independent Certified Public Accountant. Two manually signed copies of the certified financial statement and accompanying audit report shall be filed with the Commission within ten (10) days of completion.

The Nation will require the Independent Certified Public Accountant to submit to the State Racing and Wagering Board (or other agency designated by the State) a letter or statement certifying that the financial statements of the Nation gaming operation present fairly, in all material respects, the financial position and results of operations in conformity with generally accepted accounting principles. This letter or statement by the Independent Certified Public Accountant will be submitted on the same day that the annual financial statements and accompanying audit report are filed with the Commission, as required by the previous paragraph.

The Nation also will be responsible for submitting certain reports to the State Racing and Wagering Board (or other agency designated by the State) regarding material weaknesses in accounting and internal controls and the discharge of the Independent Certified Public Accountant, as required by the

provisions of Appendix B.

The Chart of Accounts and prototype financial statements comprising the remainder of this Appendix are for illustration purposes only and should not be considered as definitive or mandatory. However, the accounting structures shown are similar to those used in other gaming activities nationally and can serve as the basis for State-Nation agreement in developing specific accounts for games included in this Compact. The standards adopted in the State-Nation Compact must meet or exceed those of this illustrative Chart of Accounts.

Prototype Financial Statement

BALANCE SHEET

Assets

Current Assets:

Cash and Cash equivalents
 Marketable securities
 Accounts receivables, less
 allowance for uncollectibles
 Prepaid expenses
 Other current assets
 Total current assets

Properties and Equipment, at Cost:

Land
 Buildings
 Furnishings and equipment
 Other
 Less accumulated depreciation
 Net properties and equipment

Other Assets:

Deferred charges
 Long-term receivables
 Other non-current assets
 Total assets

Liabilities

Current liabilities:

Current portion of long-term debt
 Accounts payable and accrued expenses
 Notes Payable
 Other
 Total current liabilities
 Long-term debt, less current portion
 Other non-current liabilities
 Total liabilities

Equity

Contributed capital
 Retained earnings
 Total equity
 Total liabilities and equity

Prototype Financial Statement

STATEMENT OF (NET) INCOME

Revenues

Nation Gaming Operation:

Baccarat
 Bang
 Beat the Dealer
 Bell Jars
 Best Poker Hand
 Big Nine
 Big Six
 Blackjack
 Card Wheel
 Chuck-A-Luck
 Color Wheel
 Craps (Dice)
 Fruit Wheel
 Hazard
 Horse Race Game
 Horse Race Wheel
 Joker Seven
 Keno
 Merchandise Wheels
 Mini-Baccarat
 Money Wheel
 Pai Gow Poker
 Red Dog/Acey Ducey
 Roulette
 Super Pan Game
 Under and Over Seven
 Other

Food and Beverage

Other

Total operating revenues

Expenses

Operating:

Nation gaming operations
 Food and Beverage
 Promotional allowance
 Repairs and maintenance
 Administrative: Selling and General
 Depreciation and Amortization
 Total operating expenses
 Net operating income

Nonoperating expenses (revenues):

Interest expense

Interest income

Other

Nonoperating income

Net income

CHART OF ACCOUNTS -- TEXT

ASSETS

Cash**Nation gaming operation cashier balance**

Includes total balance of the gaming facility cashier for all forms of cash, assets similar to cash, and credit instruments, including cash, undeposited patrons' checks, total gaming chips, total reserve chips, and patrons' deposits.

Nation gaming operation cashier balance - contra account for other than cash assets

This account shall be used at the end of each accounting period to distribute the total balance to the correct balance sheet accounts. Undeposited patrons' checks, gaming chips, plaques, and patrons' deposits must be distributed to the correct accounts. The balance in this account shall be reversed as of the beginning of each accounting period.

House banks and imprest change funds

This account shall include all change funds maintained by the cashiers in the various departments of the gaming operation, including front desk cashiers and food and beverage cashiers, but excluding the gaming facility cashiers.

Cash in banks

This account shall include all unrestricted demand deposits in banks.

Cash equivalents

This account shall include the value of financial instruments with a maturity of less than three months.

Marketable securities

This account shall include the aggregate cost of marketable securities held by the operator or management of the Nation gaming operation.

Investment Accounts

These accounts shall include all funds in interest bearing or other types of

investment accounts. This account excludes any cash equivalents.

Receivables and Patrons' Checks

Undeposited patrons' checks

This account shall include the total amount of patrons' checks, representing outstanding counter checks and personal checks, being held pending initial deposit by the Nation gaming operation cashier. This account shall include the total amount of patrons' checks cashed for other than gaming purposes, as necessary, but shall not reflect the check cashing fees for same.

Returned patrons' checks

This account shall include the total amount of patrons' checks held by the accounting department which have been previously deposited but returned by the bank as uncollected.

Accounts Receivable

This account shall include the total amount of outstanding indebtedness by patrons to the Nation gaming operation as a result of the extension of credit under the requirements of Appendix B.

Allowance for uncollectible amounts - patrons' checks

This account shall include the estimated amount of the patrons' checks currently held as either undeposited or returned which will ultimately be uncollectible.

Allowance for uncollectible amounts - other

This account shall include the estimated amount of all other uncollectible amounts.

Other patrons' fees

This account shall include the total amount of fees collected from patron check cashing services offered by the gaming facility.

Credit Card Receivables

This account shall include all amounts due the gaming facility from commercial credit card companies.

Other Receivables

This account shall include all other receivables not included elsewhere.

Prepaid Expenses

Credit card fees

This account shall include the amounts due the Nation gaming operation by commercial credit card companies.

Prepaid insurance

This account shall include all unamortized amounts of insurance premiums.

Prepaid licensing fees

This account shall include the unamortized amounts of prepaid licensing fees.

Prepaid rent

This account shall include all unamortized prepaid amounts of rent payments.

Other prepaid expenses

This account shall include all unamortized prepaid amounts, other than licenses and permits, taxes, insurance, interest and rent.

Land, Buildings, Improvements and Equipment

This group of accounts shall include all real property, buildings, improvements, and equipment. The actual Chart of Accounts used by the Nation gaming operation will contain precise descriptions for each fixed asset to avoid ambiguity and potential classification errors. Each category description also will include examples of the fixed assets to be included in each account.

Land

This account shall include the cost of all land purchased.

Land improvements

This account shall include the cost of all improvements to land, such as gutters, sewers, and landscaping.

Buildings

This account shall include the cost of all acquired or constructed buildings.

Building improvements

This account shall include the cost of all improvements to buildings. This account generally includes items which are physically attached to the building and immovable.

Construction in progress

This account shall include the accumulated cost of property which is under construction, including capitalized interest, and has not been placed in use. Upon completion, total property costs must be transferred to the correct fixed asset account.

Furnishings and equipment

This account shall include the cost of major furnishings and equipments, other than those items under capital leases such as transportation equipment. Furnishings and equipment included in this account are items such as carpets, draperies, mechanical and electrical equipment and furniture.

Leased real property under capital leases

This account shall include the carrying value of qualified real property under capital leases. The carrying value shall be determined under the provisions of Statement of Financial Accounting Standards No. 13.

Leasehold improvements

This account shall include the cost of qualified investments in improvements made to leased property.

Other property and equipment

This account shall include the cost of all other property and equipment not specifically accounted elsewhere.

Accumulated Depreciation and Amortization

Accounts shall be established to include the accumulated amounts of depreciation and amortization for each category of property and equipment, and depreciation and amortization shall be recorded monthly for each,

except land and construction in progress.

Other Assets

Refundable Deposits Non-current

This account shall include security and miscellaneous deposits with others, such as public utility companies and governmental agencies.

Cash surrender value of life insurance

This account shall include the current cash surrender value of insurance policies on the lives of officers and others under which the Nation gaming operation is the beneficiary.

Goodwill

This account shall include the excess purchase price paid over the fair market value of the net assets acquired in a business combination.

Preopening costs

This account shall include any preopening costs such as systems development, employee recruitment and training, etc.

Entertainment Production Costs

This account shall include appropriate entertainment costs for the Nation gaming facility.

Other deferred costs

This account shall include the charges for services and expenses which have been incurred but are expected to benefit future periods.

Accumulated amortization - deferred costs

This account shall include any licensing costs, fees related to organization and financing costs associated with long-term debt.

Accumulated amortization - other assets

This account shall include all assets not provided for elsewhere including such items as the cost of saleable or transferable licenses.

LIABILITIES

Accounts Payable

Trade accounts - due to others

This account shall include all amounts due to others for services or purchases of items such as food and beverage inventories, supplies, and equipment.

Employee tips payable

This account shall include all amounts collected by the Nation gaming operation but payable to employees as tips from guests and patrons.

Other accounts payable

This account shall include any amounts payable to vendors for services or purchases which are not specifically provided here or elsewhere.

Notes Payable and Current Portion of Long-term Debt

Short term notes payable to others

This account shall include all amounts payable by the Nation gaming operation to others on notes with original maturities of one year or less.

Current portion of debt - others

This account shall include all amounts due within the next twelve months on debt obligations collateralized by qualified cumulative investments and due others.

Current portion of long-term debt - due to others

This account shall include all amounts due within the next twelve months on debt obligations due to others, other than those included elsewhere.

Current portion of debt - line of credit

This account shall include all amounts due within the next twelve months on debt obligations from a line of credit with any third party.

Current portion of capital lease obligations

This account shall include all amounts due within the next twelve months on capital lease obligations due others.

Unredeemed Gaming Chips, Plaques and Patrons' Deposits

Table Inventory

This account shall include the total "face value" of chips and plaques on the gaming tables. The "face value" is defined as the amount for which chips and plaques are redeemable in cash.

Chips and plaques in custody of the gaming facility cashier

This account shall include the total "face value" of chips and plaques in the custody of the Nation gaming operation cashier. A reversing entry shall be made at the beginning of each accounting period.

Chips and plaques issued - current series

This account shall include the total "face value" of the chips and plaques series currently in use by the Nation gaming operation. This account shall represent the amount of chips and plaques placed in circulation other than those remaining on hand.

Chips and plaques issued - reserve series

This account shall include the total "face value" of any series of chips and plaques purchased by the Nation gaming operation and held as a backup or reserve for the series currently in use.

Chips and plaques issued - reserve series

This account shall represent the total "face value" of the reserve series of chips and plaques which are in the custody of the Nation gaming operation.

Unredeemed gaming chips and plaques - past series

This account shall represent the net liability for past series of chips and plaques which are no longer in use by the Nation gaming operation, but are still outstanding with patrons, and have not been credited to income.

Patrons' deposits

This account shall include all amounts on deposit by patrons with the Nation gaming operation cashier.

Other Accrued Expenses

Accrued salaries and wages

This account shall include all amounts accrued as expenses but not yet paid to employees and officers for salaries and wages.

Accrued bonuses

This account shall include all amounts accrued as expenses but not yet paid to employees and officers for bonuses.

Accrued pension/profit sharing contributions

This account shall include all amounts accrued as expenses but not yet paid to pension and profit sharing funds as contributions.

Accrued vacation

This account shall include all amounts accrued as expenses but not yet paid to employees for earned time off.

Accrued interest

This account shall include all amounts accrued as expenses but not yet paid to lenders for interest.

Accrued advertising

This account shall include all amounts accrued as expenses but not yet paid to advertisers for advertising.

Accrued rent

This account shall include all amounts accrued as expenses but not yet paid to landlords for rent.

Other accrued expenses

This account shall include all accrued liability amounts for expenses not specifically provided for elsewhere.

Other Current Liabilities

Due to owners - management fees

This account shall include all amounts payable to owners for management fees due within the next twelve months.

Due to owners - other

This account shall include all amounts payable to owners for amounts, other than management fees, due within the next twelve months.

Other current liabilities

This account shall include all current liabilities, such as deferred credits, not specifically provided for elsewhere.

Long-Term Debt and Other Non-Current Liabilities

Long-term debt - non-current portion

This account shall include all amounts due after the next twelve months on debt obligations due others.

Capital lease obligations - long-term portion

This account shall include all amounts due after the next twelve months on capital lease obligations due to others.

Other non-current liabilities

This account shall include amounts due after the next twelve months on debt or lease obligations not specifically provided for elsewhere.

Other deferred credits

This account shall include amounts for deferred credits not included elsewhere.

EQUITY

Retained earnings/deficit

This account shall include the accumulated undistributed earnings/deficit.

Partners' or Proprietors' Equity

Contributed capital

This account shall include the amount of capital paid in or investment made in the Nation gaming operation by the partners or proprietor with funds from sources other than profits.

Capital withdrawals

This account shall include the accumulated capital withdrawals made by the owners.

GAMING FACILITY

The gaming facility department accounts shall include all revenue and expenses attributable to the gaming facility departments and cashiers' cage.

Revenue from Allowable Games

There shall be a separate account for each game (blackjack, craps, double zero roulette, big six and such others as may be included in the Compact), which shall be credited with the win or charged with the loss from each type of game.

Revenue from Food and Beverage and other Concessions

Food Sales

This account shall be credited with income derived from food and beverages sales on the premises.

Parking Fees

This account shall be credited with income derived from parking fees.

Vending Machine Income

This account shall be credited with all income derived from vending machines. Any cost of merchandise related to this revenue shall be charged to this account.

Commissions

This account shall be credited with income from any taxicab, pay telephone, tour or sightseeing operators as well as any other commission basis services in conjunction with operation of the Nation gaming operation.

Accommodations

This account shall be credited with income from room rentals in premises owned and operated by the Oneida Nation in conjunction with the Nation gaming operation.

Other Income

This account shall be credited with any other income directly attributable to the Nation gaming operation, including write-offs of unredeemed gaming chips and counter checks.

Payroll and Related Expenses

Salaries and wages - other employees

This account shall be charged with all salaries and wages for employees of the Nation gaming facility department who are not officers and/or owners of the Nation gaming operation. This category of expense includes overtime premium, holiday, vacation, and sick pay. Included in this group of employees shall be gaming facility managers, shift bosses, pit bosses, floormen, dealers, and employees in the cashiers' cage.

Salaries and wages - officers and owners

This account shall be charged with all salaries and wages for employees of the Nation gaming operation department who are also officers and/or owners of the Nation gaming operation.

Payroll benefits

This account shall be charged with all group insurance, employee meals, and other benefit expenses attributable to employees of the gaming facility.

Other payroll costs

This account shall be charged with all other payroll costs not included elsewhere.

Other Expenses

Cash overages and shortages

This account shall be charged and credited with all overages and shortages of the Nation gaming operation cashiers.

Complimentary Services - food, beverages, coupon redemptions, travel

This account shall be charged with, in such sub-accounts as may be necessary, the retail values of all complimentary services including beverages, food, travel, and the retail value of any coupon redemption items including coupon redemptions for food, beverages and/or travel.

Complimentary services - coupon redemption cash or chips

This account shall be charged with the value of coupons redeemed for cash or chips authorized by the management of the Nation gaming operation. This account shall apply to coupon redemption programs which entitle patrons to redeem coupons for complimentary cash or chips including, but not limited to, bus coupons.

Complimentary services - other

This account shall be charged with the retail value of other complimentary goods and services not accounted for elsewhere.

Nation gaming operation management fees

This account shall be charged with all fees paid under management contracts for the Nation gaming facility operation.

Nation gaming operation management fees - other

This account shall be charged with all fees paid for other than management contracts.

Professional fees

This account shall be charged with all fees paid to independent auditors, accountants, management consultants, attorneys, state regulatory entities and others providing such services.

Operating supplies

This account shall be charged with the cost of all operating supplies used in the Nation gaming facility. Included shall be the cost of playing cards, chips, dealing shoes, dice, etc.

Cost of Food and Beverage

This account shall be charged with the costs of food and beverages served, other than complimentary items.

Provision for uncollectible patrons' checks

This account shall be charged with the estimated amount of uncollectible patrons' checks accepted during the period. The contra entry shall be to the account established for allowance for uncollectible patrons' checks.

Provision for uncollectible non-gaming gaming facility accounts

This account shall be charged with the estimated amount of uncollectible non-gaming Nation gaming facility receivables.

Gains and losses on foreign currency transactions

This account shall be charged with any differences between the exchange value of patrons' checks, collected in a foreign currency and the original value of the counter checks issued to patrons.

Tournament prizes

This account shall be charged with all amounts paid as tournament prizes.

Promotional prizes

This account shall be charged with all amounts paid as promotional prizes. Examples of such items include drawings and give-aways.

Costs associated with promotions

This account shall be charged with costs associated with promotions. Examples of such items include materials, equipment, displays and labor.

Other Operating Expenses

This account shall be charged with any other costs which are not included elsewhere.

Executive Department

Payroll and Related Expenses

Salaries and wages - other employees

This account shall be charged with all salaries and wages for employees of the executive department who are not officers and/or owners of the Nation gaming operation. This category of expense includes overtime premium, holiday, vacation, and sick pay. Included in this group of employees shall be executive secretaries, clerks, etc.

Salaries and wages - officers and owners

This account shall be charged with all salaries and wages for employees of the executive department who are also officers and/or owners of the Nation gaming operation.

Payroll benefits

This account shall be charged with all group insurance, employee meals, and other benefit expenses attributable to employees of the executive department.

Surveillance Department

Payroll and Related Expenses

Salaries and wages - other employees

This account shall be charged with all salaries and wages for employees of the surveillance department who are not officers and/or owners of the Nation gaming operation. This category of expense includes overtime premium, holiday, vacation, and sick pay. Included in this group of employees shall be surveillance camera operators and viewers, etc.

Salaries and wages - officers and owners

This account shall be charged with all salaries and wages for employees of the surveillance department who are also officers and/or owners of the Nation gaming operation.

Payroll benefits

This account shall be charged with all group insurance, employee meals, and other benefit expenses attributable to employees of the Surveillance Department.

Internal Audit Department

Payroll and Related Expenses

Salaries and wages - other employees

This account shall be charged with all salaries and wages for employees of the internal audit department who are not officers and/or owners of the Nation gaming operation. This category of expense includes overtime premium, holiday, vacation, and sick pay. Included in this group of employees shall be internal auditors and associated staff.

Salaries and wages - officers and owners

This account shall be charged with all salaries and wages for employees of the internal audit department who are also officers and/or owners of the Nation gaming operation.

Payroll benefits

This account shall be charged with all group insurance, employee meals, and other benefit expenses attributable to employees of the internal audit department.

Credit Department

Payroll and Related Expenses

Salaries and wages - other employees

This account shall be charged with all salaries and wages for employees of the credit department who are not officers and/or owners of the Nation gaming operation. This category of expense includes overtime premium, holiday, vacation, and sick pay. Included in this group of employees shall be credit managers, verifiers, etc.

Salaries and wages - officers and owners

This account shall be charged with all salaries and wages for employees of the credit department who are also officers and/or owners of the Nation gaming operation.

Payroll benefits

This account shall be charged with all group insurance, employee meals, and other benefit expenses attributable to employees of the credit department.

Security Department

Payroll and Related Expenses

Salaries and wages - other employees

This account shall be charged with all salaries and wages for employees of the security department who are not officers and/or owners of the Nation gaming operation. This category of expense includes overtime premium, holiday, vacation, and sick pay. Included in this group of employees shall be security guards, security supervisors, and other employees of the security department.

Salaries and wages - officers and owners

This account shall be charged with all salaries and wages for employees of the security department who are also officers and/or owners of the Nation gaming operation.

Payroll benefits

This account shall be charged with all group insurance, employee meals, and other benefit expenses attributable to employees of the Security Department.

Gaming Facility Accounting Department

Payroll and Related Expenses

Salaries and wages - other employees

This account shall be charged with all salaries and wages for employees of the gaming facility accounting department who are not officers and/or owners of the

Nation gaming operation. This category of expense includes overtime premium, holiday, vacation, and sick pay. Included in this group of employees shall be supervising accountants, accountants, and other employees in the accounting department.

Salaries and wages - officers and owners
This account shall be charged with all salaries and wages for employees of the gaming facility accounting department who are also officers and/or owners of the Nation gaming operation.

Payroll benefits
This account shall be charged with all group insurance, employee meals, and other benefit expenses attributable to employees of the Nation gaming facility accounting department.

Other Expenses

Energy costs
This account shall be charged with the cost of fuels and electricity to provide light, power, climate controls and other energy for Nation gaming facility operations.

Water
This account shall be charged with the cost of water purchased from water utilities. In addition, any bottled water purchased for drinking purposes shall also be charged to this account.

Waste Removal
This account shall be charged with the costs of waste removal.

Other Utilities

This account shall be charged with the cost of utilities and associated services not otherwise recorded.

RENT, OTHER CHARGES AND INSURANCE

Rent

This account shall be charged with all amounts paid as rent or lease payments for real property or personal property.

Insurance on building and contents

This account shall be charged with the monthly amortization of the cost of insuring the Nation gaming facility's building and contents against damage, destruction by fire, weather, etc. Amounts paid for general insurance such as liability insurance shall be amortized elsewhere.

OTHER REVENUE AND EXPENSES

Nonoperating Income and Expenses

Interest Income

This account shall be credited with all interest income earned from investments, notes and other receivables, and time deposits.

Interest income on other approved eligible investments

This account shall be credited with other income and miscellaneous credits related to other approved eligible investments.

Dividend income

This account shall be credited with all dividends from investments in securities.

Gain or loss on disposal of property

This account shall be credited with all gains and charged with all losses on the disposal of property and equipment.

Realized gain or loss on marketable equity securities

This account shall be charged with all losses and credited with all gains resulting from the sale of marketable equity securities. The gain or loss shall be computed as the difference between the net selling price and the carrying value.

Unrealized gain or loss on current marketable equity securities

This account shall be charged with (loss)

or credited with (gain) the change during the current accounting period in any excess of the carrying value over the current market value for marketable equity securities.

Other nonoperating income and credits

This account shall be credited with all income and miscellaneous credits not specifically provided for in other account classifications.

Other nonoperating expenses and charges

This account shall be charged with all expenses and miscellaneous debits not specifically provided for in other account classifications.

Extraordinary Items and Accounting changes

Extraordinary credits

This account shall be credited with all income and credits which meet the definition of extraordinary credits.

Extraordinary charges

This account shall be charged with all expenses and debits which meet the definition of extraordinary charges.

Cumulative effect of accounting changes

This account shall be charged or credited with the cumulative effect, as of the beginning of the accounting period, of permissible changes in accounting principles which do not qualify as prior period adjustments but which affect the determination of the current period's net income or loss.

APPENDIX D

State Assessment for Costs of Oversight

(a) General. The State shall assess and the Nation shall pay for reasonable and necessary costs incurred by the State in regulating gaming under this Compact as provided in 25 U.S.C. § 2710 (d) (3) (C) (iii). These costs shall include the actual costs of wages of State employees, their fringe benefits, and their relevant travel, lodging and other expenses when those employees are performing reasonable and necessary State regulation under this Compact. Those costs shall also include such other non-employee expenses as equipment, space, utility and maintenance costs reasonably necessary for those employees to perform their regulatory roles under this Compact.

(b) Budget Planning. Annually, on or about October 1, the State, after consultation with the Nation, shall provide the Nation with a budget estimate of State costs expected to be incurred during the following State fiscal year, i.e., from April 1 to March 31 of the succeeding year. The purpose is to enable the Nation and the State to engage in forward fiscal planning. Coordination of estimates developed by the State agencies concerned shall be the responsibility of the State Office of Indian Relations or such other agency of the State as the State may designate from time to time by written notice to the Nation. The comprehensive budget estimate shall be submitted to the State Division of the Budget for review and inclusion in the State's Executive Budget. It shall include a level of detail no less than in the following schedule:

(c) Definitions.(i) Personal Service Costs:

Staffing. Includes listing of categories of State employees by job title, pay grade and anticipated pay, and number within each category.

Fringe Benefits. Computed using the annual percentage rate promulgated by the Division of Budget for the cost of benefits provided to State employees. The percentage is applied against an employee's salary and added thereto.

Overhead Costs. A percentage (e.g., 1%) of the total salaries of State employees directly assigned on a full-time basis to regulate Class III gaming activities pursuant to this Compact. The purpose is to defray the associated administrative costs of the relevant State agency's central administration.

- (ii) Non-Personal Service. Includes items directly related to, and dedicated exclusively to, gaming regulation under this Compact, such as telephones, vehicles and related equipment, fax machines, desks, chairs, file cabinets, personal computers, communication systems, rental cost of off-reservation headquarters space, and cleaning, maintenance and supply costs. Estimated costs for each shall be detailed.
- (iii) One-Time v. Recurring Costs. Identifies those costs, primarily for Non-Personal Service, that are incurred as a one-time cost by the State during the start-up period(s) and segregates those costs that are estimated to be recurring. Because the number of gaming facilities to be operated by or for the Nation is uncertain, the cost allocation will also include estimated costs per gaming facility.
- (d) Nation Notice to State. The Nation shall provide the State, prior to October 1, of each year, its best estimate on the number of gaming facilities that will be operating on Nation lands during the ensuing State fiscal year. During that year, the State Gaming Agency shall be notified in not less than ninety (90) days of the intent of the Nation to commence the operation of a new gaming facility or terminate the operation of an existing gaming facility.
- (e) Payments by Nation to State.
 - (i) Assessment by State. The State shall assess the Nation quarterly for actual expenses incurred in executing its regulatory responsibilities under this Compact. Time spent by State employees in performance of relevant duties shall be documented by duly executed and approved time cards, and reimbursement for expenses for employee travel, lodging and food shall be based upon the policies of the State of New York applicable to all State employees, as adjusted from time to time, provided, however, that the State shall notify the Nation at least thirty (30) days prior to the effective date of changes to such policies which may effect State reimbursement by the Nation. Purchase of equipment, supplied and other Non-Personal Service items shall be supported by appropriate receipts of purchase or lease.
 - (ii) Start-Up Assessment. During the start-up year of Class III gaming operations, the State's quarterly assessment of costs to the Nation shall be based upon the prospective budget estimates developed by

the State in cooperation with the Nation. Within thirty (30) days after the close of the State's fiscal year, the State shall submit an adjusted assessment to the Nation reflecting actual State expenses. If the adjustment demonstrates that the Nation has been overbilled or underbilled, a compensating adjustment will be made in billings to the Nation in the subsequent billing period.

- (iii) Subsequent Assessments. For each of the second and subsequent years, the first quarterly billing to the Nation, representing the period of actual expenses from April 1 to June 30 inclusive, shall be submitted by the State on or about August 1 of each year. Subsequent quarterly billings shall be submitted to the Nation by the State on or about November 1 for the second quarter, February 1 for the third quarter, and May 1 for the last quarter. Reimbursement to the State by the Nation shall occur within thirty (30) days of billing by the State via check made out to the order of the State, with notation referencing the appropriate Special Revenue Fund/Other account, as designated by the State, and mailed to the Office of Indian Relations, 22nd Floor, Alfred E. Smith State Office Building, Albany, New York 12225.
- (f) Resolution of Disputed State Expenses. If the Nation disputes the eligibility or validity of any of the State's expenses billed to the Nation, the Nation, within the thirty (30) day reimbursement period, shall notify the State Office of Indian Relations of the disputed items billed and give its reasons for contesting them. If the Nation and the State are unable to resolve the dispute(s) to their mutual satisfaction, the dispute resolution procedures provided for in Section 14 of this Compact shall be utilized for a final resolution. Until such resolution is obtained, all of the undisputed items in a billing shall be reimbursed by the Nation to the State; only the disputed items shall be withheld until final resolution is obtained.

ONEIDA INDIAN NATION OF NEW YORK
GAMING REGULATIONS

PROMULGATED BY
ONEIDA INDIAN NATION OF NEW YORK GAMING COMMISSION

July 16, 1993

CHAPTER I - GENERAL PROVISIONS

SECTION 1. AUTHORITY. These Gaming Regulations are issued pursuant to the authority of Oneida Indian Nation of New York Gaming Ordinance No. 0-93-01.

SECTION 2. PURPOSE. The purpose of these Regulations is to regulate Class II gaming on Nation lands in accordance with Nation Ordinance No. 0-93-01 and the Indian Gaming Regulatory Act ("IGRA"), 25 U.S.C. §§ 2701 et seq., and to regulate Class III gaming on Nation lands in accordance with Nation Ordinance No. 0-93-01, IGRA and the Nation-State Compact between the Oneida Indian Nation of New York and the State of New York.

SECTION 3. DEFINITIONS. For purposes of these Regulations:

(a) "Act" or "IGRA" means the Indian Gaming Regulatory Act, codified at 25 U.S.C. §§ 2701-21 and 18 U.S.C. §§ 1166-68.

(b) "Board" means the New York State Racing and Wagering Board, its authorized officials, agents, and representatives acting in their official capacities or other such agency of the State as the State may from time to time designate by written notice to the Commission as the State agency responsible for the regulation of Class III gaming jointly with the Commission.

(c) "Class II gaming" means those forms of gaming defined in subsection (7) of Section 4 of the Act, 25 U.S.C. § 2703 and in 25 C.F.R. § 502.3.

(d) "Class II gaming equipment" means any machine or device which is specially designed or manufactured for use in the operation of Class II gaming.

(e) "Class III gaming" means those forms of gaming that are not Class I or Class II gaming, as defined in subsections (6) and (7) of Section 4 of the Act, 25 U.S.C. § 2703.

(f) "Class III gaming equipment" means any machine or device which is specially designed or manufactured for use in the operation of Class III gaming.

(g) "Commission" or "Nation gaming agency" means the Oneida Indian Nation of New York Gaming Commission.

(h) "Compact" means the Nation-State Compact, including Appendices, between the Oneida Indian Nation of New York and the State of New York.

(i) "Consensus" is the basis for decision-making by the Nation.

(j) "Division" means the New York State Division of Criminal Justice Services, its authorized officials, agents, and representatives acting in their official capacities.

(k) "Enterprise" means any individual, trust, corporation, partnership, or other legal entity of any kind other than a business or entity wholly owned by the Nation; provided, however, that with respect to any corporation, the term "enterprise" shall include each other corporation or other legal entity which, directly or indirectly, controls a majority of the voting interests in such corporation; and further provided that with

respect to any partnership, trust, or other form of unincorporated business organization, the term "enterprise" shall include each corporation or other legal entity which, directly or indirectly, controls a majority of the voting interests in such organization.

(l) "Executive Director" means the individual appointed by the Nation Representative pursuant to Section 14 of Article XII of the Ordinance and Section 2(p) of Chapter II of these Regulations.

(m) "Gaming employee" means any natural person employed in the operation or management of gaming authorized by these Regulations whether employed by the Commission or by any enterprise or management contractor providing on-site services to the Nation within a gaming facility.

(n) "Gaming facility" means any building in which authorized gaming is conducted on Nation lands and shall include all public and non-public areas of any such building.

(o) "Gaming operation" means any enterprise, business or activity operated by the Commission or authorized to operate by the Commission on Nation lands for the purpose of conducting any form of gaming.

(p) "Gaming services" means those goods or services provided to gaming operations in connection with the operation of gaming, including maintenance or security services for gaming facilities, gaming schools or training activities, promotional services, printing or manufacture of betting tickets, and

manufacture, distribution, maintenance, testing or repair of gaming equipment.

(q) "Gaming supplies" means those goods or supplies which are specially designed for use in the operation of gaming.

(r) "Management contract" means any contract as defined in 25 C.F.R. § 502.15.

(s) "Nation" means the Oneida Indian Nation of New York, its authorized officials, agents and representatives acting in their official capacities.

(t) "Nation lands" means the reservation lands of the Nation or lands within the State over which the Nation exercises governmental power and that are either (i) held by the Nation or an individual member of the Nation subject to restriction by the United States against alienation; or (ii) held in trust by the United States for the benefit of the Nation or an individual member of the Nation.

(u) "Nation law enforcement agency" means the police force or agency established and maintained by the Nation.

(v) "Nation Representative" means the official governmental representative of the Nation.

(w) "NIGC" means the National Indian Gaming Commission established by IGRA.

(x) "Ordinance" means Oneida Indian Nation of New York Gaming Ordinance No. 0-93-01.

(y) "Principal" means with respect to any enterprise: (i) each of its officers and directors; (ii) each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer, or general manager; (iii) each of its owners or partners if an unincorporated business; (iv) each of its shareholders who owns more than ten percent (10%) of the shares of the corporation if a corporation; and (v) each person other than a banking institution who has provided financing for the enterprise constituting more than ten percent (10%) of the total financing of the enterprise.

(z) "Regulations" means these Oneida Indian Nation of New York Gaming Commission Regulations including Appendices.

(aa) "State" means the State of New York, its authorized officials, agents, representatives or agencies acting in their official capacities.

(bb) "State law enforcement agency" means the New York State Police or such other law enforcement agency of the State as the State may from time to time designate by written notice to the Commission as the law enforcement agency of the State which will have responsibility for law enforcement with respect to Class III gaming as authorized by the provisions of the Compact.

SECTION 4. CONSTRUCTION.

(a) Liberal Construction. These Regulations shall be liberally construed to permit the Commission to effectively carry out its functions. The Appendices attached hereto are incorporated herein by reference.

(b) No Conflict. Nothing contained in these Regulations shall be construed to conflict with any provision of the Ordinance, the Compact, the Act or the Federal Regulations (25 C.F.R. Parts 501 et al.) pertaining to the Act.

(c) Deviation. In special cases and for good cause shown, the Commission may relax or permit deviations from these Regulations.

(d) Calculating Time. Whenever any provision of these regulations requires that an act or event occur on a specified day or date, and such day or date falls upon a Saturday, Sunday or legal holiday, such provision shall be construed to refer to the next business day immediately following such day or date. In computing any period of time prescribed or allowed by the Compact, these Regulations, or any laws, rules or regulations of the Nation, the day of the act, event or default from which the designated period of time begins to run shall not be included.

(e) Exclusive Jurisdiction. The Commission shall have exclusive jurisdiction over all matters delegated to it or within the scope of its powers under the Ordinance, the Compact and these Regulations.

(f) Other Matters. In any matter not governed by these Regulations, the Commission shall exercise its discretion so as to carry out the purposes of these Regulations, the Ordinance and the Compact.

(g) Severability. In the event that any section or provision of these Regulations is deemed invalid, or its

application to any particular activity is deemed invalid, the remaining sections and provisions of these Regulations and the remaining applications of such section or provision shall continue in full force and effect.

SECTION 5. SOVEREIGN IMMUNITY. Except as may be specifically provided in these Regulations, the Nation does not waive its sovereign immunity, under either state or federal law or arising from native existence, by promulgating these Regulations.

SECTION 6. MISCELLANEOUS PROHIBITIONS.

(a) Prohibition on Possession of Firearms. No person shall be permitted to bear firearms of any kind within any Nation gaming facilities except for members of the State law enforcement agency, any other law enforcement officers or agents of the Commission authorized by law. The Commission shall take appropriate measures to inform the public of this prohibition.

(b) Prohibition on Attendance by Minors. No person under the age of eighteen (18) shall be admitted into any Nation gaming facility, nor be permitted to place any wager, directly or indirectly.

(c) Devices Prohibited. Except as specifically permitted by the Commission, no person shall use at any table game in any Nation gaming facility any calculator, computer, or other electronic or mechanical device to assist in projecting an outcome at any table game or in keeping track of or analyzing the cards having been dealt, the changing probabilities of any table game, or the playing strategies to be used.

(d) Persons Barred From Facilities. The Commission may bar from gaming facilities persons found to have violated the provisions of this Section or the rules of any authorized Class II or III game or activity. The Commission shall bar from gaming facilities persons who, because of their criminal histories, associations with career offenders, or actions, pose a threat to the integrity of the gaming activities or the safety of the Nation's patrons or employees. The Commission shall also bar persons engaging in disorderly conduct or other conduct jeopardizing public safety in a gaming facility. The Commission shall establish, maintain and share with the Board a list of persons barred from Class III gaming facilities under this Section. In addition to its power to bar persons under this Section, the Commission may seek any further remedies against any such persons as the Commission may deem appropriate.

SECTION 7. AGENT FOR SERVICE OF PROCESS. By written notification to the NIGC, the Commission shall designate an agent for service of any official determination, order, or notice of violation.

CHAPTER II - POWERS AND DUTIES OF THE COMMISSION

SECTION 1. ORGANIZATION AND OPERATION OF THE COMMISSION.

(a) Gaming Commissioners. The Commission shall be composed of three persons, each of whom shall carry the title "Gaming Commissioner."

(b) Appointment. The Gaming Commissioners shall be appointed, and may be reappointed, by the Nation Representative. A certificate of the Nation Representative as to the appointment or reappointment of any Gaming Commissioner shall be conclusive evidence of the due and proper appointment of the member.

(c) Nation Membership; Gaming Employment. A Gaming Commissioner may be a member or non-member of the Nation. However, no Gaming Commissioner shall be a gaming employee of any Nation gaming operation.

(d) Term of Office. The term of office shall be four years and staggered. When the Gaming Commission is first established, the Nation Representative shall designate one Gaming Commissioner's term to expire in two years, another to expire in three years, and the third to expire in four years. Thereafter, all appointments shall be for four years, except that in the case of a prior vacancy, an appointment shall be only for the length of the unexpired term. If physically able, each Gaming Commissioner shall hold office until his/her successor has been appointed.

(e) Positions. The Nation Representative shall name one of the Gaming Commissioners as the First Gaming Representative of the Commission, who shall preside at meetings. The Commission shall select from among its Commissioners a Second Gaming Representative, a Secretary and a Treasurer; any Gaming Commissioner may hold two of these positions, except that no Gaming Commissioner may hold the positions of both First Gaming Representative and Second Gaming Representative. In the absence of the First Gaming Representative, the Second Gaming Representative shall preside.

(f) Removal. A Gaming Commissioner may be removed by the Nation Representative at any time with or without cause.

(g) No Gaming Activity. No Gaming Commissioner or employee of the Commission shall participate as a player in any gaming activity conducted by the Nation.

(h) Compensation and Expenses. The Gaming Commissioners may receive compensation for their services and shall be entitled to compensation for their expenses, including travel expenses, incurred in the discharge of their duties. Such compensation shall be determined by the Nation Representative.

(i) Quorum; Consensus. A majority of the Commissioners currently holding office shall constitute a quorum for the transaction of business, but no Commission action shall be taken unless there is agreement by consensus.

(j) Minutes. The Secretary shall keep minutes of all meetings of the Commission.

(k) Financial Records. The Treasurer with the assistance of the Executive Director shall keep full and accurate financial records, prepare the Commission's annual budget, make periodic reports to the Nation Representative, and assist in the preparation of the annual report to the Nation Representative as required by Section 17 of Article XII of the Ordinance.

(l) Meetings. Meetings of the Commission shall be held at regular intervals. Emergency meetings may be held upon twenty-four (24) hours actual notice and business transacted, provided that at least a quorum exists and that there is a consensus of those Gaming Commissioners present with respect to the proposed action.

(m) Action by Consent. Any action required or permitted to be taken at a meeting of the Commission may be taken without a meeting if all of the members sign written consents setting forth the action taken or to be taken at any time before or after the intended effective date of such action. Such consents shall be filed with the minutes of the Commission and shall have the same effect as consent obtained at a meeting.

(n) Telephonic Meetings. Gaming Commissioners may participate in a meeting of the Commission by means of conference telephone or similar communications equipment by means of which all persons participating in the meetings can hear each other, and participation in a meeting in such manner by any Gaming Commissioner who does not object at the beginning of such meeting

to the holding thereof in such manner shall constitute presence in person of that Gaming Commissioner at such meeting.

SECTION 2. POWERS AND DUTIES OF THE COMMISSION. In accordance with the Ordinance, the Commission shall be responsible for the regulation of any gaming authorized by the Ordinance, shall perform in place of the Nation the duties of the Nation set forth in Articles IX and X of the Ordinance, and shall have the following powers that it may exercise by consensus consistent with the purpose for which it is established:

(a) Standards. To promulgate standards of operation and management to govern all authorized gaming, including without limitation:

1. the rules of each game of chance operated by the Nation;
2. permissible methods of payment;
3. procedures to license gaming employees, to conduct or cause to be conducted background investigations on employees and management officials, and to train and instruct gaming employees;
4. internal organization and management of the gaming operations;
5. security and surveillance methods;
6. accounting and cash control procedures; and
7. other record keeping requirements.

Such standards shall protect the public interest in the integrity of the gaming operations, and shall reduce the dangers of

unsuitable, unfair or illegal practices and methods in the conduct of gaming.

(b) Investigation. To investigate any aspect of a gaming operation; and, in doing so, to require and review any records of or concerning any gaming operation and to compel any person employed by any such operation or doing business with such operation to appear before it or its designated representative and to provide such information, records or other materials as may be in his or her possession to assist in any investigation.

(c) Facility License; Inspection. To license any gaming facility on Nation lands where the Nation elects to allow gaming and to enter and inspect at any time any such gaming facility in which games are operated pursuant to the Ordinance. Such inspections may be conducted by non-uniformed inspectors employed by and under the direction of the Commission.

(d) Annual Audit. To require an annual audit by a certified public accounting firm of all gaming activities and such other audits as it deems necessary.

(e) Employee License. To license any gaming employee.

(f) Gaming Service Registration. To acknowledge the registration of gaming service enterprises by the State for purposes of contracting with the Nation and to assist the State in the registration of gaming service enterprises that seek to do business with a Nation gaming operation.

(g) Background Investigation. To ensure that background investigations are conducted in accordance with the Act and, if

applicable, the Compact, and to oversee gaming employees and all others licensed by the Commission on an ongoing basis.

(h) Prohibit Conduct. To prohibit undesirable conduct from occurring in, and undesirable persons from admission to, any gaming facility.

(i) Law Enforcement Coordination. To coordinate and cooperate with any legitimate law enforcement effort, including cooperation with the Nation law enforcement agency to protect the Nation and its gaming operations from harm.

(j) Nation Security Personnel. To provide security personnel to protect each gaming facility, its employees, patrons and their property.

(k) Information Provision. To provide information to the federal and state governments in accordance with the Act and the Compact.

(l) Public Health and Safety. To ensure that the construction and maintenance of all gaming facilities and the operation of all gaming activities is conducted in a manner that adequately protects the environment and the public health and safety.

(m) Enforcement Authority. To impose appropriate sanctions on any gaming operation for violations of the Act, the Compact, the Ordinance, these Regulations, and any other applicable law.

(n) Statutory and Compact Duties. To carry out each responsibility and duty of a Nation gaming agency set forth in the Act or Compact not otherwise set forth in the Ordinance.

(o) Complaints; Recommendations; Hearings; Suggestions. To receive any complaint from an employee of any gaming operation or any member of the public who is or claims to be adversely affected by an act or omission of a gaming operation that is asserted to violate the Ordinance, the Act, the Compact, or the standards of management and operation adopted pursuant to the Ordinance and these Regulations, and upon consideration of such complaint recommend to the Nation Representative such remedial action as it deems appropriate to bring the gaming operation into compliance with such provisions. The Commission may for this purpose, in its sole discretion, conduct a hearing and receive evidence with regard to such complaint if it deems an evidentiary proceeding useful in the resolution of such complaint. Any hearing conducted pursuant to this provision may also be held before a representative designated by the Commission. In addition, the Commission may receive any suggestions from any employee of any gaming operation or any member of the public regarding ways in which a gaming operation may be improved.

(p) Operating Budget; Executive Director. The Commission shall adopt an annual operating budget which shall be subject to the approval of the Nation Representative and may, in accordance with that budget, employ such staff from time to time as it deems necessary to fulfill its responsibilities under the Ordinance and these Regulations. The Nation Representative shall appoint an individual to serve as a full-time Executive Director of the Commission to administer its responsibilities on a day-to-day

basis and to oversee inspectors appointed by the Commission as well as such other staff as the Commission may from time to time employ. The Executive Director shall act in the name of the Commission to oversee the operation of all gaming facilities. The Commission may delegate to the Executive Director any powers not expressly limited to the Commission. The Commission may also enlist with the approval of the Nation Representative legal counsel and other professional services, including investigative services, to assist the Commission with respect to any of the issues over which the Commission exercises jurisdiction.

(q) Employees of the Commission. The Commission shall have sole discretion to select its employees. Employees of the Commission shall meet standards for character and integrity set forth in the Compact. All employees of the Commission shall, as a condition of employment, be required to undergo fingerprint and background checks by the State law enforcement agency and be certified by the Board. Further, pursuant to Section 3(e) of the Compact, members of the Commission shall, upon assuming their offices, also receive fingerprint and background investigations by the State law enforcement agency, the results of which, along with an advisory opinion, shall be provided by the Board to the Nation Representative. Employees of the Commission shall, when at a gaming operation, wear on their outer garments color-coded identification badges in accordance with Section 6(m) of Chapter IV of these Regulations. The Commission shall have the authority

to terminate the employment of any Commission employee, including the Executive Director, with or without cause.

(r) Studies and Analyses. To undertake and carry out studies and analyses of Nation gaming operations.

(s) Amendment. To amend these Regulations.

(t) Annual Report. The Commission shall submit an annual report, in written form, signed by the First Gaming Representative, to the Nation Representative showing (i) a summary of the year's activities, (ii) the financial condition of the gaming operations, (iii) any significant problems and accomplishments, (iv) plans for the future, and (v) such other information as the Commission or the Nation Representative shall deem pertinent.

(u) Further Actions. To take such further actions as are commonly engaged in by public bodies of this character as the Commission may deem necessary and desirable to effectuate its purposes.

CHAPTER III - CLASS II GAMING

SECTION 1. SCOPE. This Chapter shall apply to all Class II gaming and gaming operations conducted on Nation lands.

SECTION 2. DEFINITIONS. For the purpose of this Chapter:

(a) "Key employee" means:

1. A person who performs one or more of the following functions:

- a. Bingo caller;
- b. Counting room supervisor;
- c. Chief of security;
- d. Custodian of gaming supplies or cash;
- e. Floor manager;
- f. Pit boss;
- g. Dealer;
- h. Croupier;
- i. Approver of credit; or
- j. Custodian of gambling devices including

persons with access to cash and accounting records within such devices;

2. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or

3. If not otherwise included, the four most highly compensated persons in the gaming operation.

(b) "Primary management official" means:

1. The person having management responsibility for a management contract;
2. Any person who has authority:
 - a. To hire and fire employees; or
 - b. To set up working policy for the gaming operation; or
3. The chief financial officer or other person who has financial management responsibility.

SECTION 3. AUTHORIZED CLASS II GAMES AND ACTIVITIES; GAME AND ACTIVITY RULES; AUTHORIZED GAMING FACILITIES.

(a) Authorized Games and Activities. The Nation may conduct Class II gaming within the Nation lands at authorized gaming facilities.

(b) Game and Activity Rules. Class II games and activities shall be conducted in accordance with the game and activity rules to be established by the Executive Director and approved by the Commission.

(c) Authorized Gaming Facilities. Class II gaming shall be authorized at the Oneida Indian Nation of New York Bingo Hall, located on Nation lands at Route 46 South, Oneida, New York, and at such other facilities as may be authorized by the Commission. The Commission or its Executive Director shall issue a license to the Nation Bingo Hall authorizing Class II gaming and shall issue licenses to any other facilities that may be authorized by the Commission to conduct Class II gaming.

SECTION 4. HOURS AND DAYS FOR GAMING. Class II gaming facilities shall be permitted to conduct gaming operations twenty-four (24) hours per day. The Executive Director shall be authorized to impose different hours of operation for any Class II gaming facility in his or her sound discretion.

SECTION 5. CERTIFICATE OF SELF-REGULATION. The Commission in its discretion may petition the NIGC for a certificate of self-regulation in accordance with Section 2710(c)(3) of the Act at any time after the Nation has continuously conducted a Class II gaming activity for three years.

SECTION 6. MANAGEMENT CONTRACT. In the event that the Nation enters into a contract for the management of any Class II gaming facility, the Executive Director shall ensure that the information required by Section 2711(a) of the Act and 25 C.F.R. § 533.3 is submitted to the NIGC.

SECTION 7. BACKGROUND INVESTIGATIONS OF KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS.

(a) Privacy Act Notice and Notice Regarding False Statements. The following Privacy Act notice shall be placed on the application form for key employees and primary management officials before the form is filled out by the applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Indian Nation,

Tribal, State, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by an Indian Nation, a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with an Indian Nation or a tribe or a gaming operation. Failure to consent to the disclosure indicated in this Notice will result in an Indian Nation or a tribe being unable to hire you in a primary management official or key employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

The following notice regarding false statements shall also be placed on the application form for key employees and primary management officials before the form is filled out by the applicant:

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).

Existing key employees and primary management officials shall complete a new application containing both the Privacy Act notice and the notice regarding false statements or shall sign a statement that (i) contains the Privacy Act notice set forth above and consents to the routine uses described in that notice; and (ii) contains the notice regarding false statements.

(b) Background Information From Applicants. Each primary management official and each key employee shall complete an application form requesting the following information:

1. Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);

2. Currently and for the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;

3. The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under subsection (b)(2) of this Section;

4. Current business and residence telephone numbers;

5. A description of any existing and previous business relationships with any Indian Nation or tribe, including ownership interests in those businesses;

6. A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

7. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

8. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition, if any;

9. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within ten (10) years of the date of the application, the name and address of the court involved and the date and disposition;

10. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed pursuant to subsection (b)(8) or (b)(9) of this Section, the criminal charge, the name and address of the court involved and the date and disposition;

11. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;

12. A current photograph;

13. Any other information the Commission deems relevant; and

14. Fingerprints in a manner prescribed by the Commission consistent with 25 C.F.R. § 522.2(h).

(c) Background Investigations. The Commission or its designated representative shall conduct a background investigation of each key employee and primary management official sufficient to make a determination of employment eligibility as set forth in subsection (d) of this Section.

(d) Eligibility Determination. The Commission shall review a person's prior activities, criminal record, if any, and

reputation, habits and associations to make a finding concerning the eligibility of a key employee or primary management official for employment in a gaming operation. If the Commission determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, then such person shall not be employed in any Nation gaming operation governed by this Chapter in a key employee or primary management official position. Nor shall any Class II Nation gaming operation employ a person determined by the Commission to have supplied materially false or misleading information or who has omitted material information which he or she was required to submit to the Nation.

(e) Procedure for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the NIGC.

1. When a key employee or primary management official begins work at a Class II gaming facility, the Commission shall forward to the NIGC a copy of the completed employment application and conduct the background investigation and make the eligibility determination referred to in subsection (d) of this Section.

2. Background investigations pursuant to this Section 7 shall be conducted by officers of the Nation Police Force under the direction of the Nation Commissioner of Public Safety in

consultation with the Executive Director of the Commission. In order to provide a basis for the Commission to make a finding concerning the eligibility for employment in a gaming operation, the investigations shall include, at a minimum, the following:

- a. verification by written or oral communication of the information submitted by the applicant;
- b. inquiry into the applicant's prior activities, criminal record, if any, and reputation, habits and associations;
- c. interviews of a sufficient number of knowledgeable people such as former employers, personal references, and others to whom referred by the applicant or others; and
- d. documentation of disposition of any prejudicial information obtained about applicant.

The Executive Director and the Nation Commissioner of Public Safety shall review and approve the investigative work performed under this Section 7. The Nation Police force shall be responsible for the taking of fingerprints and shall obtain, in coordination with other law enforcement agencies if necessary, a criminal record check regarding the applicant.

3. The Commission shall prepare an investigative report on each background investigation of a key employee or primary management official within sixty (60) days after such employee commences work or within sixty (60) days of the approval

of the Ordinance by the Chairman of the NIGC, which ever is later. Such report shall include the following:

- a. Steps taken in conducting a background investigation;
- b. Results obtained;
- c. Conclusions reached; and
- d. The bases for those conclusions.

4. The Commission shall submit with the report a copy of the eligibility determination made under subsection (d) of this Section.

(f) Report to the National Indian Gaming Commission.

1. The Executive Director of the Commission shall forward the report referred to in subsection (e) of this Section to the NIGC within sixty (60) days after an employee commences work or within sixty (60) days of the approval of the Ordinance by the Chairman of the NIGC, which ever is later.

2. With respect to key employees and primary management officials, the Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the NIGC or his or her designee for no less than three (3) years from the date of termination of employment.

**SECTION 8. GAMING LICENSES FOR KEY EMPLOYEES AND PRIMARY
MANAGEMENT OFFICIALS.**

(a) Requirement of Gaming License Within Ninety (90) Days of Employment. Each key employee and primary management official of a Class II gaming facility shall be licensed by the Nation in accordance with the provisions of this Section. No Nation Class II gaming facility may employ a key employee or primary management official who does not have a gaming license within ninety (90) days after the employee begins work or within ninety (90) days of the approval of the Ordinance by the Chairman of the NIGC, whichever is later.

(b) Issuance of License. The Commission, through its Executive Director, shall issue all licenses for Class II key employees and primary management officials. In determining whether to issue a license, the Commission shall consider the eligibility standards set forth in Section 7(d) of this Chapter, the information contained on the application submitted by the individual seeking a license, the results of the background investigation conducted and any information provided by the NIGC.

(c) Thirty (30) Day Period for NIGC Review. If, within a thirty (30) day period after the NIGC receives the report pursuant to Section 7(f) of this Chapter, the NIGC notifies the Commission that it has no objection to the issuance of a license pursuant to an application filed by a key employee or a primary management official for whom the Commission has provided an

application and investigative report to the NIGC, the Commission may issue a license to such applicant.

If, within the thirty (30) day period described above, the NIGC provides the Commission with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Commission has provided an application and investigative report to the NIGC, the Commission shall reconsider the application, taking into account the objections itemized by the NIGC. The Commission shall make the final decision whether to issue a license to such applicant.

(d) Response to Inquires From NIGC. The Commission shall respond to a request for additional information from the Chairman of the NIGC concerning a key employee or a primary management official who is the subject of an investigative report. Such a request shall suspend the thirty (30) day period under subsection (c) of this Section until the Chairman of the NIGC receives the additional information.

(e) Denial of License. If a license is not issued to an applicant, the Commission shall notify the NIGC and may forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.

(f) Suspension of License. If, after the issuance of a gaming license, the Commission receives from any source, including without limitation the NIGC, reliable information indicating that a key employee or a primary management official

is not eligible for employment in a Class II gaming facility under the standards set forth in this Chapter, the Commission shall suspend such license and shall notify the licensee in writing of the suspension, the proposed revocation, and of a time and a place for a hearing on the proposed revocation of the license. After a revocation hearing, the Commission shall decide to revoke or to reinstate a gaming license. The Commission shall notify the NIGC of its decision.

**SECTION 9. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS
CONCERNING CLASS II GAMING.**

(a) Maintenance and Preservation of Papers and Records.

1. A Class II gaming operation shall keep permanent books of account or records of Class II gaming, including inventory records of gaming supplies, sufficient to establish the amount of gross and net income, deductions and expenses, receipts and disbursements, and other information required in any financial statement, report, or other accounting prepared pursuant to the Act.

2. Books or records required by this Section shall be kept at all times available for inspection by the authorized representatives of the Commission and the NIGC. They shall be retained for no less than five (5) years.

3. A gaming operation shall maintain copies of all enforcement actions that the Commission or the NIGC has taken against the operation, noting the final disposition of each case.

4. The NIGC may require a gaming operation to submit statements, reports, or accountings of Class II gaming, or keep specific records of Class II gaming, that will enable the NIGC to determine whether or not such operation is liable for fees payable to the NIGC and in what amount and has properly and completely accounted for all transactions and other matters monitored by the NIGC.

(b) Entry of Premises. The authorized representatives of the Commission and the NIGC may enter the premises of any Class II gaming operation to inspect, examine, photocopy, and audit all papers, books, and records (including computer records) concerning (i) gross revenues of Class II gaming conducted on Nation lands and (ii) any other matters necessary to carry out the duties of the Commission under the Ordinance or the NIGC under the Act. The authorized representative of either the Commission or the NIGC shall present official identification upon entering a Class II gaming operation for the purpose of enforcing the Ordinance or the Act.

(c) Access to Papers, Books and Records.

1. Once the authorized representative of the Commission or the NIGC presents proper identification, a Class II gaming operation shall provide the authorized representative with access to all papers, books, and records (including computer records) concerning Class II gaming or any other matters for which the Commission or the NIGC requires such access to carry out its duties under the Ordinance or the Act.

2. If such papers, books, and records are not available at the location of the gaming operation, the gaming operation shall make them available at a time and place convenient to the authorized representative of the Commission or the NIGC, as the case may be.

3. Upon the request of the authorized representative of the Commission or the NIGC, the Class II gaming operation shall photocopy or allow the authorized representative to photocopy, any papers, books, and records concerning Class II gaming or that the Commission or the NIGC require to carry out their respective duties under the Ordinance or the Act that are requested by the authorized representative.

4. Any books, records, or papers provided to the Commission or the NIGC by any Nation Class II gaming operation shall be deemed confidential and proprietary information belonging to the gaming operation and shall not be subject to public disclosure by the Commission or the NIGC without the express written consent of the Nation or as otherwise required by law.

(d) Audits.

1. The Commission shall obtain an annual audit of the financial statements of each Class II gaming operation on Nation lands from an independent certified public accountant. Such financial statement shall be prepared in accordance with generally accepted accounting principles and the audit(s) shall be conducted in accordance with general accepted auditing

standards. Audits of Class II gaming operations required under this Section may be conducted in conjunction with any other independent audit of Nation gaming operations obtained by the Commission or a management contractor engaged by the Commission, provided that the requirements of this Section and the Act are met.

2. The Commission shall submit to the NIGC a copy of the report(s) and management letter(s) setting forth the results of each annual audit within 120 days after the end of each fiscal year of the gaming operation.

3. The Commission shall reconcile its quarterly fee assessment reports, submitted under 25 C.F.R. § 514, with its audited financial statements and make available such reconciliation upon request by the NIGC's authorized representative.

CHAPTER IV - CLASS III GAMING

SECTION 1. SCOPE. This Chapter shall apply to all Class III gaming and gaming operations conducted on Nation lands.

SECTION 2. AUTHORIZED CLASS III GAMES AND ACTIVITIES; GAME AND ACTIVITY RULES; AUTHORIZED GAMING FACILITIES.

(a) Authorized Games and Activities. The Nation may conduct within the Nation lands at authorized Class III gaming facilities those games and activities enumerated in Appendix A of the Compact, which is attached as Appendix A to and made a part of these Regulations.

(b) Game and Activity Rules. Authorized games and activities shall be conducted in accordance with the game and activity rules set forth in Appendix A of the Compact and Paragraph 23 of Appendix B of the Compact, which appendices are attached as Appendices A and B to and made a part of these Regulations. To the extent Appendices A and B permit several methods or rules under which an authorized game may be played, the Nation or its designee may select the appropriate methods or rules for gaming.

(c) Authorized Gaming Facilities. Class III gaming shall be authorized at the Turning Stone Gaming Facility and at such other facilities as may be authorized by the Commission. The Commission or its Executive Director shall issue a license to the Turning Stone Gaming Facility authorizing Class III gaming and

shall issue licenses to any other facilities that may be authorized by the Commission to conduct Class III gaming.

SECTION 3. HOURS AND DAYS FOR GAMING. Class III gaming facilities shall be permitted to conduct gaming operations twenty-four (24) hours per day. The Executive Director shall be authorized to impose different hours of operation for any Class III gaming facility in his or her sound discretion and upon at least ninety (90) days advance notice to the State of any change imposed.

SECTION 4. MANAGEMENT CONTRACT. In the event that the Nation enters into a contract for the management of any Class III gaming facility, that contract will expressly require the management contractor to comply with the terms of the Compact and these Regulations applicable to Class III gaming.

SECTION 5. COORDINATION WITH NEW YORK STATE AGENCIES.

(a) Jurisdiction of the State. Nothing in these Regulations shall alter the jurisdiction of the State of New York over Indian Land as provided by applicable law.

(b) Powers of State Law Enforcement Agency. Members of the State law enforcement agency in the course of their official duties shall have unfettered access to all areas of Class III gaming facilities as well as to auxiliary facilities, subject only to State and Federal constitutional limitations. Such members shall not be denied access to any area in or about the Class III gaming facility in the course of those duties.

(c) New York State Racing and Wagering Board. Pursuant to Section 4 of the Compact, personnel employed by the Board shall have unfettered access to all areas of the Class III gaming facilities including the surveillance room(s) during all hours of operation without prior notice. However, personnel employed by the Commission shall accompany Board personnel into secured areas where money is counted or kept. Representatives of the Board shall be permitted to enter all other non-public areas of Class III gaming facilities by giving notice to a representative of the Commission designated by the Executive Director who shall, immediately upon receiving such notice, unlock or cause to be unlocked the non-public area and ensure that the representative of the Board is permitted to enter. The Commission shall make available reasonable office space and reserved parking space adjacent to Class III gaming facilities for the Board.

(d) Access to Records. The Commission shall submit to the Board on a daily basis copies of any daily inspection reports made by Commission employees and copies of any patron complaints concerning Class III gaming operations. The Commission shall provide to the Board business and accounting records of its Class III gaming operations requested by the Board in the course of any investigation by the Board which are necessary to the conduct of that investigation.

(e) Number of Board Employees at a Gaming Facility. The Commission shall not contest the Board's right under Section 4(d) of the Compact to have no less than two inspectors per shift for

twenty-four (24) hours each day present in a Class III gaming facility to execute the Board's responsibilities under the Compact.

(f) Identification Badges. The Commission shall issue color-coded identification badges to be worn by Board and State Police employees while at a gaming facility in accordance with Section 6(m) of this Chapter. Upon issuance of each badge, the Commission shall forward the name of its recipient and the recipient's employment position and badge number to the Board, the State Police and the Nation gaming operations.

(g) Quarterly meetings. Pursuant to Section 4(e) of the Compact, representatives of the Commission shall meet quarterly with representatives of the Board and the State Police to review past practices and examine methods to improve the regulatory and enforcement program created by the Compact and these Regulations.

SECTION 6. LICENSING OF GAMING EMPLOYEES.

(a) Requirement for Gaming Employee Licensing. No person may commence or continue employment as a Class III gaming employee unless he or she is the holder of a valid Class III gaming employee license issued by the Commission in accordance with the provisions of this Section.

(b) Employee Standards. Any person whose prior activities, criminal record, if any, or reputation, habits and/or associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and

activities in the conduct of gaming shall not be eligible for a Class III gaming employee license. Nor shall any person be eligible for a Class III gaming employee license who supplies materially false or misleading information in connection with a background investigation. The Commission shall also consider the following standards in determining employment eligibility: (i) the financial stability, integrity and responsibility of the person; (ii) the good character and reputation of the person for honesty and integrity; (iii) the sufficiency of the business ability and casino experience of the person to adequately establish the likelihood of his or her success and efficiency in the particular position involved; and (iv) the person is at least eighteen (18) years old.

(c) Procedure for License Applications.

1. Each applicant for a Class III gaming employee license shall submit a completed license application in quadruplicate to the Class III gaming operation on a form prescribed by the Commission and the Board and consistent with Section 6(b) of the Compact.

2. Each completed application shall be accompanied by two (2) sets of the applicant's fingerprint cards, three (3) current photographs, a signed release authorizing a background investigation, and a non-refundable processing fee payable to the "Nation Gaming Commission" in an amount set by the Executive Director and approved by the Commission. The Class III gaming operation shall provide one copy of the license application to

the Commission accompanied by one current photograph, and the original and one copy of the application to the Board accompanied by the fingerprint cards, the remaining current photographs, and the Board's fingerprint processing fee.

(d) Notification of Employment Termination. Pursuant to Sections 6(d) and 6(h) of the Compact, the Commission shall notify the Board and the Division when a person is no longer employed in Class III gaming within six (6) months of employment termination.

(e) Submission of Information by Nation Gaming Operation. The Class III gaming operation shall submit to the Commission any information bearing upon the eligibility for license by the Commission or certification by the Board of any applicant or licensee. The Commission shall forward such information to the Board as soon as possible.

(f) Action by the Commission.

1. The Commission shall deny a license to any applicant for a position as a Class III gaming employee who is denied certification by the Board pursuant to Section 6(f) of the Compact. Upon certification by the Board, the Commission, in its sole discretion, may nevertheless deny a Class III gaming employee license to any applicant who:

- a. is under the age of 18;
- b. has been convicted of a felony;
- c. has been convicted of any form of bookmaking or other form of illegal gaming;

d. has been convicted of any fraud or material misrepresentation in connection with gaming;

e. has been found through an administrative determination to have violated any law, rule or regulation relating to gaming for which termination of employment or revocation of license might be imposed;

f. has otherwise been determined to be a person whose prior activities, criminal record, if any, or reputation, habits and/or associations pose a threat to the effective regulation of gaming or create or enhance the chances of unfair or illegal practices, methods, and activities in the conduct of the gaming permitted pursuant to the Compact and these Regulations; or

g. has failed to provide any information reasonably required to investigate the applicant for a gaming employee license or to reveal any fact material to such application, or has furnished any information which is untrue or misleading in connection with such application.

2. Upon approval of a Class III gaming employee license application, the Commission shall send appropriate notification to the applicant and the Board. The notice shall include the name of the licensee and the license number.

3. Upon a denial of an initial Class III gaming employee license application, the Commission shall notify in writing the applicant, the Board and the Class III gaming

operation. The notice shall set forth the reason(s) for the denial.

(g) Temporary Licensing and Certification. The Class III gaming operation may request the Commission to issue a temporary license for any Class III gaming employee applicant. In that event, the Commission shall request the Board to issue a temporary certification for that applicant or to otherwise certify such applicant as eligible for a temporary license. Contemporaneous with a request for temporary certification, the Commission shall submit to the Board the relevant application, including the applicant's fingerprints.

The Commission may issue a temporary license providing that the Board has issued a temporary certification or has otherwise certified the applicant(s). The temporary certification and temporary license shall remain in effect until either is suspended, revoked or until such time as an annual certification and license are issued. If the Board notifies the Commission that the Board has denied issuance of a temporary certification, the Commission shall not issue a temporary license, but shall not interrupt the processing of the application for an annual license and certification unless such application is withdrawn by the Class III gaming operation.

(h) Form and Duration of License. The form of the Class III gaming employee license shall be wallet-sized and laminated, shall contain a license number, employee name, employee photograph and expiration date, and shall be conspicuously

labeled: "Oneida Indian Nation of New York Class III Gaming Employee License." The form of a temporary license shall be identical except that it shall be labeled "Oneida Indian Nation of New York Temporary Class III Gaming Employee License." The license shall be effective for a period of not more than one year, provided that a licensed gaming employee who has timely and properly applied for a license renewal may continue to be employed under the expired license -- affixed with a sticker labeled "Renewal Pending" -- until such time as final action is taken on the renewal application by the Commission.

(i) Renewal of License. Prior to expiration of the Class III gaming employee license, an applicant for a license renewal shall submit a renewal application in quadruplicate to the Class III gaming operation on forms prescribed by the Commission which shall not require the applicant to furnish historical data previously submitted. The Class III gaming operation shall forward one copy to the Commission and the original and one copy of the renewal application to the Board for renewal certification. The Commission may renew the license of any employee who meets the qualifications of this Section and is recertified by the Board. The Commission shall notify the Board of its grant of any renewal application.

(j) Suspension or Revocation of Certification by the Board. Upon the suspension or revocation of a Class III gaming employee certification by the Board, the Commission shall accordingly suspend or revoke the license of the gaming employee.

(k) Suspension, Revocation or Denial of Renewal of License by the Commission. The Commission may -- without a hearing -- suspend, revoke or deny a renewal of any Class III gaming employee license for any violation of the Compact, Nation ordinances or these Regulations or if new information concerning facts arising either prior to or since the issuance of the initial license, or any renewal thereof, comes to the attention of the Commission which information would justify denial of such initial license. The Commission shall immediately notify the Board of every suspension, revocation or denial of renewal of a gaming employee license.

(l) Carrying of License. The Class III gaming employee license issued by the Commission shall be carried on the person of the licensee at all times while at a gaming facility or while engaged in employment as a gaming employee. The license shall be surrendered to the Commission upon license suspension or revocation or upon termination of employment.

(m) Identification Badges. The Commission shall issue identification badges to Class III gaming employees holding valid Class III gaming employee licenses, temporary licenses, or expired licenses pending renewal. Identification badges shall be valid only for the period that the employee's license, temporary license or license pending renewal remains valid. Additionally, subject to any other applicable requirements of these Regulations, the Commission shall issue identification badges to persons in the following special offices which shall be valid for

the period of such special office: Gaming Employee Class I; Gaming Employee Class II; Gaming Employee Class III; Gaming Services Employee; Enterprise Employee; State Police Employee; Board Employee; and Commission Employee and Member.

Each identification badge shall be laminated. The badge shall display a badge number serially issued by the Commission, the wearer's name and photograph, and the badge's expiration date. The background coloring of the badge shall be coded by license type and the badge shall be conspicuously labeled according to the job title of the recipient as follows:

<u>License Type</u>	<u>Color</u>
Gaming Employee Class I	Yellow
Gaming Employee Class II	Silver
Gaming Employee Class III	Blue
Gaming Services Employee	Pink
Enterprise Employee	Orange
State Police	Brown
Racing & Wagering Board	Green
Commission Employees & Members	Red

Identification badges shall remain the property of the Commission and must be surrendered by the licensed gaming employee upon demand by an authorized Commission representative where such employee has been suspended, charged or discharged for violation of any applicable law of the Nation, the United States or the State, or where his or her employment has terminated for any reason. The holder of an identification badge pursuant to

special office shall surrender such badge to the Commission upon termination of his or her special office. Upon issuance of an identification badge, the Commission shall forward the name of each recipient, his or her employment position or special office, and the color job title code assigned to his or her badge to the Board.

SECTION 7. RETENTION OF APPLICATION RECORDS. The Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the NIGC or his or her designee for no less than three (3) years from the date of termination of employment.

SECTION 8. REGISTRATION OF GAMING SERVICE ENTERPRISES.

(a) Requirements for Registration. No enterprise may provide gaming services, gaming supplies or gaming equipment to a Class III gaming operation unless it holds a valid Class III gaming services registration issued by the Board in accordance with the provisions set forth in the Compact.

(b) Procedures for Registration. Each applicant for a Class III gaming service registration shall submit a completed registration application in quadruplicate to the Commission accompanied by a non-refundable processing fee payable to the "Nation Gaming Commission" in an amount set by the Executive Director. If the Commission wishes the application considered, the Commission shall promptly forward the application to the Board. The Class III gaming registration application shall be on a form prescribed by the Board and shall contain such

information, documentation and assurances as may be required by the Board.

(c) Notification of Termination. The Commission shall notify the Division when a Class III gaming service registrant and principals are no longer involved in Class III gaming operated by the Nation immediately following the termination of such Class III gaming involvement.

(d) Temporary Gaming Services Registration. The Commission may request that the Board issue a temporary Class III gaming services registration pending the processing of the application for a Class III gaming services registration; gaming services enterprises registered in Connecticut or New Jersey shall be deemed to have temporary gaming service registration pursuant to Section 7(f) of the Compact.

(e) Duration of Registration. The Commission shall permit a registrant to continue to provide services or equipment under an expired registration upon satisfactory evidence that the registrant has timely and properly applied for a renewal by the Board.

(f) Renewal of Gaming Services Registration. A renewal applicant and its principals shall submit a renewal application and informational form(s) in quadruplicate to the Commission which shall forward the original and one copy to the Board and one copy to the Class III gaming operation. The renewal application shall be on a form and contain such information as prescribed by the Board. The Commission and the Nation gaming

operation shall submit to the Board any new information concerning the renewal applicant's continuing suitability or eligibility for a Class III gaming services registration.

(g) Licensing; Display of Badge. Each employee of a Class III gaming service enterprise registered with the Board whose duties require such employee to have access to the gaming floor of a Class III gaming facility shall be licensed by the Commission as a gaming services employee and shall display a gaming services employee identification badge in accordance with Section 6(m) of this Chapter. Upon suspension, revocation or termination of the registration a Class III gaming service enterprise, its employees shall surrender all licenses and badges to the Commission.

(h) Investigation. The Commission may investigate any person or entity holding a Class III gaming services registration, or any principal thereof, at any time. The Commission shall submit any information received by the Commission or the Nation gaming operation bearing upon the eligibility of any applicant, registrant or principal to the Board.

(i) Nation Owned and Operated Entities. In the event the Nation forms an entity which it will wholly own and operate to provide gaming services, gaming supplies or gaming equipment to a Class III gaming facility, the Commission shall notify the Board and certify that the entity is wholly owned and operated by the Nation. Any member of the Nation who is employed by such an

entity and whose duties require him to have access to the gaming floor shall receive a fingerprint and background check -- the results of which, along with an advisory opinion, shall be provided by the Board to the Commission -- and shall be issued an identification badge for an enterprise employee in accordance with Section 6(m) of this Chapter. A person who is not a member of the Nation who is employed by such an entity and whose duties require him to have access to the gaming floor shall be licensed and issued an identification badge for an enterprise employee pursuant to Section 6(m) of this Chapter.

SECTION 9. INVESTIGATION OF NON-GAMING ENTERPRISES AND OTHER PERSONS.

(a) Non-Gaming Enterprises. The Commission shall identify to the Board any enterprise that provides goods, supplies or services to a Class III gaming operation other than gaming services, gaming supplies or gaming equipment in a total amount exceeding the sum of \$50,000.00 in a single twelve (12) month period. The Commission shall cooperate with the Board and the State law enforcement agency in any reasonable investigation deemed necessary by either State agency relative to the fitness of such enterprise to engage in any business with Class III gaming operations.

(b) Other Persons. The Commission may request in writing that the Board and the State law enforcement agency shall conduct a background investigation including a criminal records check of any person and provide a recommendation based on the results of

the investigation. The Commission's request shall set forth the reason(s) for the background investigation, and any investigation the Commission wishes conducted in addition to a criminal records check.

SECTION 10. STANDARDS OF OPERATION AND MANAGEMENT. Class III gaming operations shall conform to the standards of operation and management set forth in Appendix B of the Compact, which is attached as Appendix B to and made a part of these Regulations.

SECTION 11. FINANCIAL PROCEDURES.

(a) The Chart of Accounts. The Nation's accounting procedures for its Class III gaming operations shall comply with Appendix C of the Compact, which is attached as Appendix C to and made a part of these Regulations.

(b) Reimbursement for State Costs of Oversight. State assessments for costs of oversight incurred in connection with Class III gaming operations shall be reimbursed exclusively in accordance with the procedure set forth in Appendix D of the Compact, which is attached as Appendix D to and made a part of these Regulations.

SECTION 12. HEALTH AND SAFETY STANDARDS. Health and safety standards applicable to Class III gaming facilities shall be no less rigorous in meeting the objectives of health and safety than standards, codes and laws of the State relating to public facilities with regard to building and fire safety, health, sanitation and discharges. The Commission shall retain independent inspectors whose qualifications shall meet State

standards for such inspectors, and who shall report to the Commission on meeting such objectives. Upon request, the Commission shall make such reports available to the Board.

SECTION 13. RESOLUTION OF DISPUTES UNDER STATE-NATION COMPACT.

Except as determined otherwise by the Nation Representative, the Commission shall represent the Nation in all disputes with the State pursuant to Section 14 of the Compact concerning compliance with and interpretation of any provisions of the Compact.

SECTION 14. ADDITION OF GAMES OR ACTIVITIES.

(a) Notice by State of Additional Game or Activity.

1. Upon due notice from the State pursuant to Section 15(b)(1) of the Compact that the State has adopted a Class III game or activity that is not included in Appendix A to the Compact, or that the Board has agreed to permit any other Nation or Tribe to conduct a Class III game or activity which has not been authorized under the Compact, the Nation may adopt the State's specifications for the game or activity or submit its own specifications to the Board.

2. Should the Nation adopt the State's specifications, the game or activity shall be added to Appendix A of the Compact and to Appendix A of these Regulations effective as of the date that the Nation adopted the State's specifications for such game or activity, and the Nation shall notify the State of the effective date of such addition to Appendices A of the Compact and these Regulations.

3. Should the Nation submit its own specifications for the game or activity to the State and should the State accept such, the game or activity shall be added to Appendix A of the Compact and Appendix A of these Regulations effective as of the date of the State's acceptance of that game or activity.

4. If the State does not accept the specifications submitted by the Nation, representatives of the Nation shall attempt to resolve the dispute with the State pursuant to Section 15(b) of the Compact.

(b) Submission by Nation of Additional Games or Activities.

1. The Nation may submit written specifications to the State requesting that additional games or activities, or new specifications for existing games or activities, be added to Appendix A of the Compact and Appendix A of these Regulations.

2. If the State accepts the game or activity, the game or activity and its specifications shall be added to Appendix A of the Compact and Appendix A of these Regulations effective as of the date of the State's acceptance of that game or activity.

3. If the State does not accept the game or activity or its specifications, representatives of the Nation shall meet with the State and attempt to resolve this dispute pursuant to section 15(b) of the Compact.

(c) Amendment of Appendices. Pursuant to section 15(c) of the Compact, the Nation may seek amendment of the terms and conditions of any Appendix of the Compact.

SECTION 15. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS CONCERNING CLASS III GAMING.

(a) Maintenance and Preservation of Papers and Records.

1. A Class III gaming operation shall keep permanent books of account or records of Class III gaming, including inventory records of gaming supplies, in accordance with the Appendix C attached hereto, sufficient to establish the amount of gross and net income, deductions and expenses, receipts and disbursements, and other information required in any financial statement, report, or other accounting prepared pursuant to the Act.

2. Books or records required by this Section shall be kept at all times available for inspection by the authorized representatives of the Commission. They shall be retained for no less than five (5) years.

3. A gaming operation shall maintain copies of all enforcement actions that the Commission has taken against the operation, noting the final disposition of each case.

(b) Entry of Premises. The authorized representatives of the Commission may enter the premises of any Class III gaming operation to inspect, examine, photocopy, and audit all papers, books, and records (including computer records) concerning (i) gross revenues of Class III gaming conducted on Nation lands and

(ii) any other matters necessary to carry out the duties of the Commission under the Ordinance. The authorized representative of the Commission shall present official identification upon entering a Class III gaming operation for the purpose of enforcing the Ordinance.

(c) Access to Papers, Books and Records.

1. Once the authorized representative of the Commission presents proper identification, a Class III gaming operation shall provide the authorized representative with access to all papers, books, and records (including computer records) concerning Class III gaming or any other matters for which the Commission requires such access to carry out its duties under the Ordinance.

2. If such papers, books, and records are not available at the location of the gaming operation, the gaming operation shall make them available at a time and place convenient to the authorized representative of the Commission.

3. Upon the request of the authorized representative of the Commission, the Class III gaming operation shall photocopy or allow the authorized representative to photocopy, any papers, books, and records concerning Class III gaming or that the Commission requires to carry out its duties under the Ordinance that are requested by the authorized representative.

4. Any books, records, or papers provided to the Commission by any Nation Class III gaming operation shall be deemed confidential and proprietary information belonging to the

gaming operation and shall not be subject to public disclosure by the Commission without the express written consent of the Nation or as otherwise required by law.

(d) Audits. The Commission shall obtain an annual audit of the financial statements of each Class III gaming operation on Nation lands from an independent certified public accountant. Such financial statement shall be prepared in accordance with generally accepted accounting principles and the provisions of Appendix C attached hereto, and the audit(s) shall be conducted in accordance with general accepted auditing standards. Audits of Class III gaming operations required under this Section may be conducted in conjunction with any other independent audit of Nation gaming operations obtained by the Commission or a management contractor engaged by the Commission, provided that the requirements of this Section and the Act are met.



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TESTIMONY OF DANIEL J. TUCKER, CHAIRMAN CALIFORNIA NATIONS INDIAN GAMING ASSOCIATION

**Before the
United States Senate Committee on Indian Affairs
Oversight Hearing on Indian Gaming
July 24, 2001**

Introduction

Chairman Daniel Inouye, Vice Chairman Ben Nighthorse Campbell, and members of the Senate Committee on Indian Affairs, thank you for inviting me to testify today. I am Daniel Tucker, Chairman of the California Nations Indian Gaming Association (CNIGA), which is based in Sacramento, California. I have been Chairman of CNIGA since 1994.

I am an enrolled member of the Sycuan Band of Kuemyaay Indians, currently serving as the Tribe's Vice-Chairman. Prior to my present tenure as Vice Chairman, I was Chairman of the Tribe. Our reservation is located in El Cajon, California, just east of San Diego.

California has 108 federally recognized tribes, of which 76 are members of CNIGA. We thus represent a substantial cross-section of large and small, successful and struggling, and large land based and landless federally recognized California tribes. Our purpose is to assist tribes on gaming issues, from sponsoring seminars on casino training to the dissemination of current and accurate information relating to Indian tribal governmental gaming in California and at the national level.

We have seen tribal governmental gaming in California evolve steadily over the past twenty years, from the time gaming was first offered on California Indian reservations in the late 1970's. Through that evolution, we have witnessed some of the more fortunate California Indian reservations and tribal members reduce their absolute dependence on the federal government, reduce or eliminate poverty and unemployment, and provide the means for Indian tribal and individual self-sufficiency, self-esteem and opportunity at a level that should have been, but sadly often was not, available to the original inhabitants of this fine land. Because of governmental gaming, many tribes can for the first time offer medical care, literacy programs, job training, housing assistance, elderly care, and other vital services long taken for granted in other communities.

The success has not been universal, of course. More than half of the reservations in this country still have substandard and often third world conditions. Not every tribe has a market that can sustain a gaming enterprise. Far from it. But for those able to do so, the congressional goal

in the Indian Gaming Regulatory Act (IGRA)¹ of enabling tribes to occupy a niche in the entertainment industry that was previously reserved to a few wealthy individuals, corporations and state governments, and to thereby become self-sufficient and governmentally strong, is being met. And through tribal governmental gaming in California, as I will discuss in my presentation, tribes have taken a unique and historic step in helping other tribes meet critical needs.

Our success has not been without its detractors, however. Try as we might through organizations like CNIGA that try to get the facts before the public, false impressions continue to be spread about the ability of tribal governments to regulate gaming and to operate these projects in a proper and professional manner. Millions that could be used for other tribal needs are put back into regulation, in the recognition of the importance regulation bears to the healthy survival of critical governmental operations. *This is government gaming, not commercial enterprise.* It is sad, then, that after all these years, significant legislation and regulatory development, and expenditures of millions of dollars in regulatory costs, we still hear reports based on one incident here or there that paint a landscape that is generally uninformed and misleading. Not too surprisingly, the mistakes are always against the tribes, undoubtedly based on preconceived notions that tribal governments cannot adequately regulate gaming despite overwhelming evidence to the contrary. But we will persist in our attempts to correct those misimpressions, and therefore welcome the opportunity to do so today in this hearing. *Indeed, the California public that twice voted for our gaming by margins of over 63%, knows better.*

Federal Regulation under IGRA

Let me begin this examination of our regulatory systems and successes with an overview of federal gaming regulation in Indian country. Under IGRA no tribe can engage in gaming on Indian lands (which is the only place tribal gaming under IGRA can be operated) unless that tribal government has duly enacted a law meeting IGRA's basic regulatory requirements.² Those laws must be approved by the federal government, through the National Indian Gaming Commission's (NIGC's) tribal gaming law review procedures. Those are addressed extensively in IGRA and the accompanying Code of Federal Regulation (CFR) rules.³ Under those provisions, tribal governments must have the sole proprietary interest and responsibility for their gaming projects.⁴ They may only use their profits for tribal governmental operations and programs, the general welfare of tribal members, to promote tribal economic development, for donations to charities, and to help fund the operations of local governmental agencies.⁵ Unlike private gaming interests or even state owned gaming operations, tribes do not have unfettered discretion in how they may spend their revenues. In fact, if distributions are made to tribal members, the tribal government must take the additional step of preparing a written plan that sets forth how funds are going to be allocated among governmental programs and approved uses. The plan must then be approved by the Secretary of the Interior.⁶

¹ 25 U.S.C. 2701 et seq.

² 25 U.S.C. 2710.

³ See, Part 501 et seq., National Indian Gaming Commission Regulations, Title 25, Code of Federal Regulations.

⁴ 25 U.S.C. 2710 (b)(2)(A).

⁵ 25 U.S.C. 2710 (b)(2)(B).

⁶ 25 U.S.C. 2710 (b)(2)(F)(3).

In addition, the tribal gaming law must provide for annual outside independent audits of the gaming operation, which must then be submitted to the federal gaming commission;⁷ require that all contractors for goods or services over \$25,000 per year annually agree to be subject to the audit;⁸ require that the tribe construct and maintain the gaming facility in a manner that adequately protects the environment and the public health and safety;⁹ and, of particular importance to our discussion today, provide that the tribe implement an adequate system of licensing and background investigations of all key employees and management officials on an ongoing basis.¹⁰ The federal requirement employs the same or higher standards than applied elsewhere in the gaming industry.¹¹ The federal gaming commission must be promptly notified of the issuance of such licenses.¹²

The federal Indian Gaming Regulatory Commission (NIGC), which was created under IGRA, also reviews extensively any contract for the outside management of a tribal gaming operation and conducts, with the assistance of the FBI, background investigations of all principals, management officials and key employees. Again contrary to some popular misconceptions that tribes are not getting a major share of the profits from these projects, federal law limits outside participation through a management contract to 30% of net profits in most instances (a statutory exception permits the ceiling to be raised to 40% but is seldom justified), and to no more than 7, and usually 5, year terms.¹³ Because many of California's tribes have been engaged in gaming for many years, many of the California tribal gaming operations, particularly the more successful operations and those in operation more than 5 years, are and for some time have been managed entirely by the tribes, with no outside management or other outside involvement whatsoever. The same is true throughout the United States.

With respect to the gaming operations themselves, the National Indian Gaming Commission has enacted extensive regulations setting forth minimum internal controls (MICS) which tribal gaming projects must follow or exceed.¹⁴ The MICS cover in detail every aspect of a casino's operations, personnel procedures and equipment, including how coins and currency must be handled inside machines and count rooms, how revenues must be tracked and documented at every stage, how gaming devices must be tested and calibrated, how card and other table games must be controlled, safeguards against skimming, theft and money laundering, and the like. With respect to the latter, Tribes must also abide by Titles 12 and 31 of the United States Code, which govern specific procedures and reporting requirements for cash transactions. Tribes throughout the country meet regularly with the Treasury Department compliance agents to review and train in those procedures. The Justice Department has testified before this committee on many occasions about the virtual absence of organized crime in tribal gaming operations, a fact that is directly attributable to tribes' own vigilance in this area.

⁷ 25 U.S.C. 2710 (b)(2)(C).

⁸ 25 U.S.C. 2710 (b)(2)(D).

⁹ 25 U.S.C. 2710 (b)(2)(E).

¹⁰ 25 U.S.C. 2710 (b)(2)(F).

¹¹ 25 U.S.C. 2710 (b)(2)(F)(ii)(II).

¹² 25 U.S.C. 2710 (b)(2)(F)(ii)(III).

¹³ 25 U.S.C. 2711.

¹⁴ 25 CFR Part 542.

In addition to tribes' own efforts, agents from the NIGC, located in its regional offices, monitor the implementation of the MICS and the other federal controls and regulations and have cited tribal operations which were out of compliance.

Our organization is dedicated to sound regulation and legal compliance. Our member tribes believe it is not only the right way to participate in this industry, but that to ensure success the public must continue to believe in the integrity of their operations, as California voters clearly demonstrated they did in the last two elections. Our member Indian tribes, therefore, work closely with the NIGC and the National Indian Gaming Association to train for and foster compliance.

Regulation under California Compacts

In addition to extensive federal standards, requirements and oversight by the tribal governments and the federal government, over 60 California tribes engaged in "class III," or gambling other than bingo, its cousins, and non-banking card games, have entered into virtually identical compacts with the State of California that reinforce the federal standards and provide additional regulatory controls and requirements that must be implemented by the tribes and the State. To facilitate that process, California tribal governments are required to maintain independent tribal gaming agencies (TGA's) in the form of gaming commissions or similar oversight entities as the first line of regulation. Many TGA's were in existence prior to the compacts and some were exemplary in what they did. Tribes were already spending millions of dollars a year on state-of-the-art surveillance and security systems, as well as on staff and outside investigators and hearing officers. Those surveillance and security systems rival or exceed the quality of most commercial casinos in the United States and elsewhere in the world.

While the compact broadens some aspects of the existing federal regulatory scheme, it is important to note that much of that broadening was taken directly from the tribes' own Proposition 5, the initiative compact prepared by the tribes and enacted by the people, only to be stricken by the California Supreme Court on a technical ground under the State constitution. (The defect was remedied by a State constitutional amendment, Proposition 1A, that was passed by the people in the following year). Contrary to the opponents' misleading ad campaign, the compacts drafted by the tribes included extensive regulatory requirements.

The new compacts provide for more explicit licensing and backgrounding processes than are set out in federal law,¹⁵ flesh out construction, environmental, health and safety and other issues related to the facility,¹⁶ regulate patron disputes and remedies,¹⁷ detail certain requirements for lenders, investors and gaming suppliers,¹⁸ compliance with procedures and laws which minimize opportunities for fraud, theft, skimming or money laundering,¹⁹ and require particular adherence to certain other internal control processes.²⁰

The compacts specifically address requirements for TGA membership and freedom from conflicts of interest, and require prompt removal of any member violating those rules.²¹

The compacts also provide for meaningful participation in the tribe's regulatory processes by state regulators. That participation includes state inspection and auditing rights²² as well as a process for state review and suitability certification for critical employees and others associated with the gaming project.²³ The State has the use of both the State Attorney General's office, through the Division of Gambling Control for investigative and enforcement purposes, and the independent Gambling Control Commission for appeals and policy matters.²⁴ Unfortunately, the division of authority in actual practice between those two agencies still seems somewhat blurred, leaving tribes in doubt about whether there will be duplicative and therefore inefficient and cumbersome regulation by the state. That outcome would not serve the two governments or the public well. Tribes therefore have been addressing that issue lately in various ways, including appearing at hearings before the state legislature, holding meetings with state officials, and seeking dialogue through the compact's own mechanisms. The tribes' dedication to regulation is not in doubt. As noted, tribes already spend millions of dollars a year on regulating their operations and in contemplation of regulatory participation by the state and federal government. But tribes are already the most regulated entities in gaming anywhere in the world. Any further, confusing and unnecessary overlap can only weaken the system.

¹⁵ California Tribal-State Compact, Section 6 (references below to "Section") are to the compact.

¹⁶ Section 10.

¹⁷ Section 10.2 (d).

¹⁸ Sections 6.4.5, 6.4.6.

¹⁹ Section 8.

²⁰ Id.

²¹ Section 8.3.

²² Section 7.4.

²³ Section 6.5.6.

²⁴ Section 2.2.

Our commitment to effective gaming regulation is not new. About eight years ago, at least six years before compacts were actually completed, California's then Attorney General Dan Lungren testified to the State legislature that tribes had been "forthcoming on the question of regulation." He stated: "We have not found them saying, 'Look, we want to invite fly-by-night operators in here,' or 'We're interested in having the dregs of society come in,' or 'We're interested in having crime come in.'" He emphasized that the tribes' attitude was "Quite to the contrary." He said, "I think they've indicated to us that they understand the need to make sure that that does not occur, and I do not think we would have any difficulty in completing that part of tribal-state compacts in terms of reasonable regulation of the operations if they were to take place on Indian reservations or properties."²⁵ Proving General Lungren's point, several years later the tribes themselves led the regulatory charge in obtaining the enactment of Proposition 5 and the later incorporation of many of its regulatory provisions in the present compacts.

Tribal-State Association

A unique element of the California compacts, which further demonstrates the focus that tribes have placed on regulation, is the compact's creation of a Tribal-State "Association." The Association is made up of two representatives from each California compact tribe's TGA and two delegates each from the State's Division of Gambling Control and Gambling Control Commission.²⁶ State regulations in respect of tribal gaming operations are subject to a review and approval process through the Association.²⁷ That body also offers an ongoing opportunity for dialogue between state and tribal regulators. It has been meeting almost monthly since the compacts went into effect, addressing the design and adoption of licensing application forms and requirements that meet both governments' needs, and other regulatory issues of mutual concern.

Tribal Revenue Sharing

a. Sharing with Other Tribes

An historic feature of the California compacts, and an outgrowth of the regulatory concern that tribal gaming revenues be used for furthering tribal governmental activities and programs, are its provisions for sharing gaming revenues with tribes that are either not in gaming or have limited operations. Another derivative of the tribes' Proposition 5 compact, the present compacts provide for sharing gaming revenues with tribes that, for various reasons, have not yet had or may never have the opportunity to participate in gaming to the extent of the larger tribal operations. Under the compacts' revenue sharing provisions, fees from licenses to operate slot machines in excess of the base allowance under the compact are paid to the State in trust for the tribes eligible to share in that fund.²⁸ To date *more than 40 million dollars has been set aside for distribution to non-gaming tribes or those with limited operations that qualify to share in the fund.* The frustrating part of that remarkable achievement is that *the money has been sitting in*

²⁵ Transcript, California Legislature Joint Hearing of the Senate Committee on Governmental Organizations and Assembly Committee on Governmental Organizations, November 30, 1963, p.19.

²⁶ Section 2.2.

²⁷ Section 8.4.

²⁸ Section 4.3.2.1.

the State's bank account for over a year under a contractual and statutory mandate that the State distribute it, but to date not a penny has been received by those tribes. The latest report is that only a portion will be released to eligible tribes, with the balance and future fund distributions subject to more uncertainty. To describe the situation as frustrating would be a gross understatement, for both contributing and would-be recipient tribes. If congressional goals and compact commitments are to be honored, those funds should be paid to eligible tribes immediately.

b. Sharing with the Local Community

Finally, it cannot be overlooked that as part of the tribes' sense of responsibility as to how gaming revenues are to be regulated and spent, California tribes have entered into numerous agreements with local governments to lessen off-reservation impacts of gaming operations. These efforts have included strengthening tribes' own health care, law enforcement and fire fighting capabilities to service the local community, as well as funding fire engines, squad cars, extra local law enforcement personnel, installing traffic lights, contributing to air quality enforcement resources, providing support for mental health and gambling addiction programs²⁹, and meeting other needs of local governments and communities directly. Added to that has been a tradition of making substantial charitable contributions, totaling in the millions each year. Tribes have supported public school arts and sports programs, senior citizens centers, homeless programs, and countless other charitable endeavors. Tribes are often the most generous donors in their communities, and are frequently commended for their commitment to assisting in meeting important local needs.

Conclusion

In conclusion, I hope that through my testimony and that of the other regional and national Indian gaming representatives, we have demonstrated the extensive compliance, awareness and priority given to gaming regulation by tribes. We only ask that there be some recognition that tribes now spend far more than any other segment of the gaming industry on regulation, and are the most extensively regulated gaming entities in history. It is time to give credit to them where credit is due, and to work together to ensure that further regulation is not simply imposed as a response to unfounded claims instead of real needs. Tribes are good regulators; a fact in which we sincerely hope this committee and Congress takes pride. On behalf of the California Nations Indian Gaming Association and California tribes, we thank you for this opportunity to testify today.

²⁹ Ironically, Congress has observed that major contributors to gambling addiction are the states. As the fact finding body created by Congress to examine gambling, the National Gambling Impact Study Commission, found, "...the most prevalent forms of gambling are the ones found in most neighborhoods: lotteries and other forms of 'convenience' gambling." The Commission found that these activities, virtually all of which are run by States with negligible benefits, have minimal regulation and are far more accessible to children, unlike casinos are far more difficult to avoid, and are the most addictive forms of gambling. (National Gambling Impact Study Commission Report, p.7-4.)

**TESTIMONY ON TRIBAL GAMING REGULATION
BEFORE SENATE HEARING ON JULY 25, 2001**

**Presented by
Norman H. DesRosiers, Commissioner
Viejas Tribal Gaming Commission**

or

**The Honorable Daniel Tucker, Vice Chairman
Sycuan Band of Mission Indians**

I have had the privilege of working directly for three different Tribal Gaming Commissions in two different states over the last nine-year period. I have also worked indirectly with approximately eighty Tribal Gaming Commissions nation wide, worked with State Gaming Regulators, and enjoyed an exceptional long term cooperative working relationship with the National Indian Gaming Commission (NIGC).

In all of those years of Tribal Regulation I have observed that every Tribal Government has its own unique personality, political structure or organization, customs and traditions, and individuality in how they each meet the needs of the citizenry within their own jurisdictions (commonly referred to as Tribal Members).

One thing they all have in common is a great pride in their sovereign status and an intense desire to govern and regulate their own affairs with minimal interference from State and Federal Governments.

For those Tribes engaged in gaming, the desire to regulate their own affairs is manifested in the establishment of their own Tribal Governmental Gaming Regulatory agencies (or Commissions). Although the regulatory responsibilities are relatively consistent from Tribe to Tribe as dictated by NIGC Regulations, IGRA, and various State compacts, the Commissions themselves vary widely in structure and organization depending on the size and nature of gaming facilities, numbers of gaming employees, vendors, and volumes of patronage and revenues.

The Tribal Gaming Commissions also vary widely in levels of experience, sophistication, and allocated human and economic resources. Of course, the resources committed to Tribal Gaming Commissions, much like States, is directly dependent upon budgets dictated by governmental revenues from various sources including taxes, license fees, assessments, federal grants, loans and of course revenues from gaming or other tribally owned enterprises and natural resources.

I'd like to focus for a moment on the very real commitment that the Viejas Tribal Government has made in regulating their Tribal gaming facility.

First, they have enacted a sixty-three (63) page Tribal Gaming Ordinance (law) which far exceeds the minimum ordinance requirements of IGRA or NIGC Regulations. This Ordinance establishes an Independent Gaming Commission with broad regulatory responsibilities and enforcement powers. The Tribal Gaming Commission is tasked with enforcement and compliance of all

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Federal, State and Tribal Gaming laws and Regulations as well as IRS Codes, Building Codes and Environmental, Health and Safety Standards. The detailed description of all that we do would be far more lengthy than what we have time for here.

Next, the Tribal Gaming Commission has written and enacted one hundred and thirty eight (138) pages of Tribal Gaming Regulations, again covering issues which exceed Compact or NIGC Regulatory compliance requirements.

To fulfill just our regulatory responsibilities, the Viejas Tribe has committed the following resources.

The Tribal Gaming Commission alone, has fifty (50) budgeted positions for full time regulatory agents which includes an auditing division, compliance division, background investigations and licensing division, inspectors and investigators on the casino floor 24 hours a day, 7 days a week and surveillance officers 24/7.

Our approved budget for FY2001 was approximately \$3.1 million dollars. Our proposed budget for FY2002 is \$3.28 million dollars. (A copy of the Commission's organizational chart and budget is attached.)

Keep in mind this is to regulate only one gaming facility. This is more personnel and money committed to regulating one facility than some entire State regulatory agencies.

Also, please note that the above regulatory resource commitments do not include the casino's capital investment of over three (3) million dollars in the latest surveillance equipment and technology and over five (5) million dollars budgeted to support a one hundred and eighty (180) man security department.

As one can imagine, if all the numbers are added up for what each individual Tribe commits to gaming regulation I think it is safe to speculate that it would exceed what all State and Federal gaming regulatory agencies combined spend on gaming regulation.

In closing, it is my opinion that the scope of NIGC's "oversight" responsibilities do not require any further expansion with one possible exception; that being to assist Tribes with processing fingerprints on the principals of vendors or businesses whom we must background and license. Otherwise, NIGC's role should continue to be that of monitoring Tribal Gaming Commissions to ensure that the Tribes are fulfilling their regulatory responsibilities as the "primary regulators" as specified in IGRA.

Thank you for the opportunity to testify before you on this matter. It has indeed been a great privilege and honor.

**VIEJAS TRIBAL GAMING COMMISSION
BUDGET FOR FISCAL YEAR 2001**

'00	'01	Rvs'd		'00	'01	Rvs'd
COMPENSATION:						
1	1	1	Commissioner -----	\$ 82,500	\$ 95,000	\$ 95,000
1	1	1	Deputy Commissioner-----	\$ 70,000	\$ 72,800	\$ 72,800
1	1	1	Executive Assistant-----	\$ 30,305	\$ 31,520	\$ 32,000
0	1	1	Secretary II @ \$11.00 per hr.-----	\$ 0	\$ 22,000	\$ 22,000
1	1	1	Licensing Specialist -----	\$ 26,000	\$ 27,040	\$ 27,040
1	1	1	Surveillance Director -----	\$ 68,900	\$ 71,600	\$ 65,000
3	3	4	Surveillance Supervisor @\$43,680 each -----	\$126,000	\$131,040	\$174,720
0	0	5	Surveillance Officer III @ average \$39,000 each-----	\$ 0	\$ 0	\$195,000
6	7	5	Surveillance Officers II @ average \$36,000 each -----	\$204,000	\$247,000	\$180,000
8	7	4	Surveillance Officers I @ average \$28,000 each-----	\$180,000	\$163,800	\$112,000
0	1	1	Surveillance Technician II @ \$18.50 p.h.r.-----	\$ 0	\$ 36,000	\$ 38,480
0	1	1	Surveillance Technician I @ \$16.00 p.h.r.-----	\$ 0	\$ 25,000	\$ 33,280
0	0	4	Inspector III @ average \$39,000 each -----	\$ 0	\$ 0	\$156,000
0	10	3	Inspector II @ average \$36,400 each -----	\$350,000	\$364,000	\$109,200
0	0	2	Inspector I @ average \$34,000 each -----	\$ 0	\$ 0	\$ 68,000
1	1	1	Card Grader-----	\$ 21,800	\$ 22,672	\$ 22,672
0	1	1	Chief Licensing/Background-----	\$ 0	\$ 42,000	\$ 42,000
0	0	2	Background Investigator III @ average \$39,000 each -----	\$ 0	\$ 0	\$ 78,000
5	4	1	Background Investigator II @ average \$36,000 each -----	\$180,000	\$149,760	\$ 36,000
0	0	1	Background Investigator I @ average \$32,000 each -----	\$ 0	\$ 0	\$ 32,000
0	1	1	Chief Compliance Officer-----	\$ 0	\$ 48,000	\$ 49,000
0	0	2	Compliance Officer III @ average \$45,500 each -----	\$ 0	\$ 0	\$ 91,000
4	3	1	Compliance Officers II @ average \$41,000 each -----	\$160,000	\$124,800	\$ 41,000
0	1	1	Chief Auditor-----	\$ 0	\$ 55,000	\$ 58,000
3	3	3	Auditors @ average \$52,000 each -----	\$150,000	\$156,000	\$156,000
0	1	1	MIS Specialist-----	\$ 0	\$ 55,000	\$ 55,000

Sub-Total	\$1,644,400	\$1,940,032	\$2,041,192
Incentive	\$ 0	\$ 255,235	\$ 285,767
Payroll Tax	\$ 0	\$ 241,041	\$ 255,149
Benefits	\$ 0	\$ 91,894	\$ 97,977
Total Compensation	\$2,203,496	\$2,522,041	\$2,680,085

	'00	'01	Rvs'd
Office Furnishing	\$20,000	\$20,000	\$ 20,000
Equipment(i.e. Fax, Phones, Computers, etc.)	\$20,000	\$15,000	\$ 20,000
Fingerprinting Machine	\$ 5,000	\$ 5,000	\$ 5,000
Test Equipment	\$ 5,000	\$ 2,000	\$ 5,000
Office Supplies	\$12,000	\$12,000	\$ 12,000
Printing	\$ 6,000	\$ 8,000	\$ 8,000
Vehicle Lease/Insurance	\$ 6,500	\$ 0	\$ 0
Relocation Costs	\$ 6,000	\$ 6,000	\$ 6,000
Travel	\$18,000	\$20,000	\$ 24,000
Training, Conferences, Registration Fees	\$12,000	\$12,000	\$ 20,000
Hosting State and National Regulator's Meetings	\$20,000	\$20,000	\$ 20,000
TRW and Background Services	\$110,000	\$110,000	\$100,000
Organizational Memberships, Subscriptions	\$ 2,000	\$ 2,000	\$ 2,000
Phone Service \$2,000 per month x 12	\$ 24,000	\$ 24,000	\$ 24,000
Auditors/Consultants/Attorneys	\$ 90,000	\$100,000	\$100,000
Postage(\$300.00 per month x 12)	\$ 3,600	\$ 3,600	\$ 3,600
Miscellaneous	\$ 10,000	\$ 10,000	\$ 10,000
Sub-Total	\$ 370,100	\$369,600	\$ 379,600
Grand Total	\$2,573,596	\$2,891,641	\$3,059,685

[illegible]

AIGA Testimony for Sen. McCain Oversight Hearings
Presenter: David LaSarte, Executive Director

TESTIMONY OF DAVID LASARTE
Executive Director Arizona Indian Gaming Association

Good morning and thank you for inviting me to be part of these proceedings.

My name is David LaSarte. I am a member of the Coeur d'Alene Tribe, from Northern Idaho.

I am here today representing 17 Indian tribes in Arizona who are members of the Arizona Indian Gaming Association (AIGA). This includes 13 tribal governments with 13 active gaming operations. Two tribes have compacts but no gaming operations; two tribes have neither compacts or gaming operations.

AIGA tribes include the Ak-Chin Indian Community, Cocopah Tribe, Fort McDowell Yavapai Nation, Fort Mojave Tribe, Gila River Indian Community, Havasupai Tribe, Hualapai Tribe, Kaibab-Paiute Tribe, Pascua Yaqui Tribe, Quechan Tribe, Salt River Pima-Maricopa Indian Community, San Carlos Apache Tribe, Tohono O'odham Nation, Tonto Apache Tribe, White Mountain Apache Tribe, Yavapai-Apache Nation and the Navajo Nation. These tribes are located throughout the state of Arizona.

Not every member of AIGA is currently operating a tribal governmental gaming facility on Indian land. Fifteen Arizona tribes have casinos on their reservations. However, every casino, except the operation owned by the small Ak-Chin Indian Community, is owned and operated by the tribe, rather than being managed by an outside management company. Only Ak-Chin, a small, semi-rural tribe west of Phoenix, contracts out the management of its casino to an outside, professional company.

To understand our regulatory climate, it is important to first understand the Arizona gaming environment. In Arizona, tribal government gaming is limited and regulated. Arizona compacts place limits on both the types of games that may be played on tribal lands, and on the number of gaming devices that can be installed in tribal governmental gaming facilities. Compact operational limits are based upon the size of the tribe. Tribes with larger enrollments of members are eligible for more machines. Conversely, smaller tribes are able to have fewer machines. Limited and regulated gaming is a concept that is supported by both Arizona tribes and by Arizona citizens.

AIGA Testimony for Sen. McCain Oversight Hearings
Presenter: David LaSarte, Executive Director

Brief Background of Arizona Gaming

In Arizona, the first compacts for tribal governmental gaming were signed in 1993. Since the first casino opened in Arizona, revenues earned by Arizona gaming tribes have been directed to provide for health, welfare, education and well-being of tribal members. Just as the Indian Gaming Regulatory Act (IGRA) intended, Indian casinos on Arizona tribal lands generate vitally needed revenues that are used to provide decent housing, infrastructure development, clean water, better education, health care and other services to tens of thousands of Indians living on Arizona reservations. They provide jobs that have taken thousands of Indians off welfare and unemployment, and produce many economic benefits for near-by communities and the entire state.

Revenues earned by Arizona Indian casinos also help fund the comprehensive regulatory system that provides regulatory oversight for Arizona Indian casinos. Not only do tribes fund their own Tribal Gaming Office, they also fund the Arizona Department of Gaming (ADOG) which is the state agency that oversees tribal governmental gaming on Indian lands.

Employment

Currently tribal governmental gaming in Arizona employs 9,324 people which makes it comparable in size to Arizona's mining sector. Arizona casinos employ 3,785 Indian people and more than 200 tribal people serve in a regulatory function.

On average, in Arizona reservations, tribal members comprise 43% of casino employees. However, it is important to understand that the highest percentage of Native employees working at casinos is found in the more economically depressed, rural reservations. There, where few other options for employment exist, the number of tribal employees working in Indian gaming can run as high as 84%. On remote reservations, Indian casinos are often the largest employer in the region, and they significantly reduce the economic burden for Indian and non-Indian residents by providing much needed jobs.

It is also important to remember that each casino employee pays payroll taxes on income earned at the casino, thus creating an additional positive economic impact.

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 Presentor: David LaSarte, Executive Director

Impact

A new statewide study of Indian Gaming in Arizona recently released by the Udall Center for Studies in Public Policy (Stephen Cornell: *An Analysis of the Economic Impacts of Indian Gaming in the State of Arizona*), defines the economic impact on tribes and Arizona of tribal governmental gaming. The report concludes that tribal governmental gaming in Arizona indirectly generated \$468 million in economic activity during 2000.

The Udall report points out that many Indian employees were formerly welfare recipients. Although statistical data is not available on the actual number of former welfare workers now employed in Indian gaming, the study concludes that, in counties where casinos operate, the presence of that casino results in a reduction of welfare rolls.

Benefits to Arizona Tribes - looking South

A few short years of gaming revenues cannot reverse the effects of more than a century of poverty, despair, and lack of quality education. However, tribal governmental gaming is making significant inroads in many of Arizona's Indian reservation lands. If the challenges remain severe, the successes are sweet.

In Southern Arizona, the Tohono O'odham Nation encompasses 2.86 million acres. This vast, desert land, which includes land in Arizona as well as in Sonora, Mexico, is home to 24,000 enrolled members of the Tohono O'odham Nation.

On this reservation, revenues from tribal governmental provide more than half of the Nation's governmental budget which, in turn, provides essential services to all members. (Federal grants and contracts contribute 44% of the budget, with "other" comprising 6%).

Tribal governmental gaming funds benefits the Tohono O'odham Nation in myriad ways. Gaming revenues directly provide a multitude of services in the areas of Education, Public Safety, Health Care, Economic Development, and governmental operations. The Nation is organized into 11 Districts containing 72 villages, each of which needs services.

Since the Nation began operating tribal governmental gaming, casino revenues have paid out \$24 million

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dollars in scholarships to 1,200 students, and contributed \$11.2 million to the founding of Tohono O'odham Community College. Gaming revenues have also provided the entire \$8.2 million for Early Childhood/Head Start Facilities.

Gaming revenues have funded 100% of the \$11.2 million budget for the West side clinic, and provided the entire \$14 million budget to construct and operate a 60 bed nursing home, which is the first nursing home built on the reservation. Gaming revenues are also funding 100% of the \$2.1 million budget for fire protection. This budget covers funds for 32 firefighters, 5 support staff, 16 vehicles and 4 substations.

Additionally, gaming revenues have funded 100% of the \$2.5 million kidney dialysis center, and completely paid for establishing 11 youth recreation centers at a cost of \$30 million. These centers encourage health and well-being. Revenues from tribal governmental gaming also contribute \$15 million each year to provide health care services for members of the Nation.

To promote economic development, the Nation established a \$15 million small business development fund. By the end of 2001, that fund will grow by an additional \$10.5 million. To date, more than 150 tribal members have received grants to help them launch and operate private businesses.

In addition to funding tribal needs, tribal governmental gaming revenues are providing 66% of the \$10.2 million budget for police protection. This translates into gaming dollars supporting 74 officers, 30 rangers, 109 support staff, 40 vehicles and 4 substations. The Nation is also paying for, and playing a key role, in guarding the border between Arizona and Sonora, Mexico against illegal entries.

Future plans for the Nation include adding more police, fire, and EMT services for all 11 districts, designing and building a Solid waste disposal way station and constructing new housing and infrastructure for tribal members. The Nation also plans to build new governmental offices, open a cultural museum and establish a radio station on the reservation. And it is looking into economic development funding in Mexico and planning to construct new detention facilities.

Despite all these efforts, the needs are still great. The Tohono O'odam Nation still has communities that have no electricity, water service, telephone or other utilities. The Nation still is working to provide the most basic services to all its members.

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 Presenter: David LaSarte, Executive Director

Benefits to Arizona Tribes - looking Central

In central Arizona, the Salt River Pima-Maricopa Indian Community encompasses 56,000 acres. Nineteen thousand of these acres have been put into a preserve to protect the natural desert, herds of wild horses and other wildlife. Although now completely surrounded by the urban cities of Scottsdale, Fountain Hills, Mesa and Tempe, historically, the Salt River Pima-Maricopa Indian Community was a poor tribe with few resources, inadequate infrastructure and high unemployment. The good economic times that swept through the rest of the metropolitan Phoenix Valley did not touch the Indian community.

Salt River, which debated whether or not to go into gaming, was the last tribe to receive a compact from the State of Arizona. Its compact was signed in late 1998 after a successful statewide, initiative ballot drive paved the way for the Governor to sign it.

According to the Bureau of Labor Statistics, in 1995, the unemployment rate on the Community was 32%. The poverty rate was, and continues to be, well above the national average. But, because of the additional services provided by gaming revenues, the Community is already experiencing substantial improvements.

Since 1995, the unemployment rate was cut to 15%, and many new projects have been started and/or completed to improve the lives of Community members. With funds available from gaming revenues, the Salt River Pima-Maricopa Indian Community is upgrading the Community's overall living conditions, providing adequate health and education for its members and providing new and additional economic opportunities and cultural facilities for the people.

Presently, tribal governmental gaming is providing revenue to fund governmental services. It is also supporting the development of non-gaming economic enterprises so the Community can attain its goal of creating a diversified economy.

One of the most costly projects being funded today by revenues from tribal governmental gaming is a massive upgrade and installation of a \$100 million water system. That system will ultimately correct serious problems that exist on Community lands. Many areas have low or no water pressure. The Salt River Pima-Maricopa Indian Community is also investing \$57 million over the next 10 years to plan and begin building a sewer system.

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 Presenter: David LaSarte, Executive Director

switching the Community from its reliance on septic tanks to sewers.

Other infrastructure programs funded with gaming dollars include flood control projects, road paving, and new communications systems. The company bought its own telephone company which, for the first time, is making telephone service available throughout the reservation. The new communications system gives members options for wireless or a fixed-phone line program with telephone, fax, cable and Internet service all delivered to members' homes. Communications and data delivery capability is not only needed for residents, it is crucial for economic development and diversification.

Because the majority of government complexes on the reservation were constructed in the late '70's and early '80's, without adequate funding for planning and construction, the Indian Community is designing a new Community Complex. And it is investing in seven new adolescent group homes. The Salt River Pima-Maricopa Indian Community also upgraded its Dialysis Treatment physical facility and increased staff. *The Pimas have the highest incidences of diabetes in the world, so good care is essential.*

Funds from governmental gaming support a new Temporary Aid to Needy Families Facility to coordinate job placement, job training, cash assistance, counseling, drug and alcohol rehabilitation and other urgently needed services on the reservation.

The Community is also using gaming revenues to upgrade and expand its existing businesses such as Phoenix Cement and Saddleback Communications. It has established a Permanent Fund to assure continued funding for governmental services. Lastly, to promote economic diversification, the Salt River Pima-Maricopa Indian Community established DEVCO, a Property Development and Asset Management Enterprise. DEVCO has opened the Chaparral Office Complex, the Community's first business park, which leases office space to commercial entities.

Benefits to Arizona Tribes - looking North

The Yavapai-Apache Nation is located in north central Arizona, near Camp Verde, Arizona. The small tribe opened its casino in 1995. Its success has enabled the Nation to provide for its people through myriad government sponsored programs and economic development.

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Before the Casino opened, many Yavapai-Apache tribal members held low paying, dead end jobs or relied on government assistance. Today, the Nation is the largest employer in the Verde Valley. The casino employs more than 750 people. Payrolls, related expenses from wages, insurance pension and taxes exceeded \$20 million in 1999.

All tribal members who want a job now have one. All employees receive in-house training and educational assistance. The Nation is establishing a corporate university to expand the educational opportunities available to tribal members and employees. As tribal employees, members of the Yavapai-Apache Nation are now fully insured for medical, dental, eye care, disability and life. Members are eligible for transport in climate-controlled vans for health-related appointments including appointments at the Indian Health Service in Phoenix.

Better health care means that tribal members are now practicing preventive medicine, have opportunities to enroll their children in daycare which is owned and operated by the Nation and have many opportunities available to them to control diabetes.

Additionally, the Yavapai-Apache Nation makes emergency loans for tribal members up to \$2500.

Before tribal governmental gaming, much of the housing in the Nation was in disrepair. Through a combination of gaming revenue and federal grants, more than 80% of the homes on the reservation have been renovated. Homes of elderly and handicapped persons have been made handicap accessible, and children, who never had a park to play in, now play at a new community recreation area that is 50% funded by tribal governmental gaming revenues.

The Yavapai-Apache Nation has established its own Police and Fire Department with a staff of 15 officers, the same size as the Police Department in Camp Verde. It is now operating its own Roads and Public Works Department, has established its own Tribal Court, and is assisting offenders through legal services, treatment and rehabilitation programs.

Before school starts each Yavapai-Apache child receives \$250 toward school clothes and supplies. An additional \$200 is given to children in the Winter for cold weather clothing. The Nation has also established a four-year "Ambassador Scholarship" to pay four years of college for graduating seniors from each of four public high schools.

In 1998, the Nation was able to buy out its management contract to own and operate its casino. In 1999, it

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took over management of the motel. Also in 1999, the Nation donated two generators to the Hualapai Tribe for use in its dialysis machines. The Nation is also staffing its Cultural Departments to preserve the language and customs of the Yavapai-Apache people.

Today, because of the support and direction provided by the Apache Cultural Program, traditional singing and dancing is returning to the Verde Valley. Where once the traditional ways were dying, today a group of young men are training as singers. The Sunrise Dance, one of the few traditional dances left to the people, has been revived after not being held on the reservation since 1947. With revenues from tribal governmental gaming, families can save for this extensive and expensive ceremony. Since tribal governmental gaming arrived in Yavapai-Apache Indian lands, three Sunrise Dances have been held.

Regulatory Structure: State and Tribal Relationship

This sampling of how Arizona Indian tribes benefit from tribal governmental gaming illustrates why Indian gaming began and why it exists today. From the outset, Indian gaming was envisioned as a way for tribes to jump-start their economies and begin to correct more than 100 years of neglect.

To accomplish this goal, the federal Indian gaming Regulatory Act of 1988 (IGRA) established a regulatory structure for gaming, one that is shared between state and tribes. In Arizona, this system works effectively because sovereign tribal governments, state government and the federal government cooperate to ensure that Indian gaming is well regulated and meets its overall goal.

At the state level, the Arizona Legislature established the Arizona Department of Gaming in 1995 to monitor Indian gaming operations on behalf of the State of Arizona. Today, the Arizona Department of Gaming has more than 50 employees who perform a variety of functions to meet the State's compacted responsibilities. These employees carry out compact enforcement activities such as gaming device inspections, and certification activities including background investigations on individuals and companies who wish to provide services to gaming operations.

An April 9, 1999 Sunset Review of Indian gaming in Arizona reported on the effectiveness of the State in overseeing tribal governmental gaming operations and on the overall effectiveness of the tribal-state regulatory

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structure. The Office of the Auditor General of the State of Arizona conducted a Performance Audit and concluded

...

"...the (Arizona) Department's (of Gaming) extensive oversight activities are well designed for ensuring the integrity of Class III gaming operations. For example, at each gaming facility, the Department performs pre-operation inspections, randomly inspects 50 gaming devices at each casino every 4 weeks, conducts compact compliance reviews every 18 months, and maintains an ongoing presence through its investigators, who visit casinos on a weekly basis to inspect operations and investigate possible compact violations.

"Department officials use a standard instrument to examine tribal compliance through its investigators who visit casinos weekly to inspect operations and investigate suspected or actual compact violations. These extensive and intensive activities are generally well designed and are accepted practices among gaming regulators. Further, they effectively identify compact violations at gaming facilities."

The Auditor General found that not only does ADOG monitor gaming extensively and practice sound regulatory procedures, it is also effective at identifying violations. The report notes that "the Department's activities effectively discover weaknesses that can be corrected to ensure the integrity of operations. For example, violations discovered in compact compliance reviews and weekly investigator visits include vendors providing services without state certification, the absence of a posted emergency evacuation plan, tribal gaming ordinances that require revision and the failure to provide the Department with a list of persons barred from the casino for unacceptable behavior. Similarly, gaming device inspections discover casino violations of technical standards, such as requirements to keep computer logic boards locked, and to fill out an access form every time an employee opens a device."

The Auditor General cites this approach as "among the most extensive nationally." The report points out that the Arizona Department of Gaming has more staff monitoring Indian gaming than any other state, and maintains a larger budget than states with comparable numbers of casinos. It also conducts its activities more frequently than most other states.

In comparison with states having 10 or more compacted Indian gaming operations, the report notes that Arizona's gaming department staff and expenditures are "by far the highest." In 1998, five other states had 10 or more compacted gaming operations: Washington (10), Minnesota (18), Wisconsin (21), Michigan (15) and New Mexico (11).

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Certification at the state level is careful and consistent. ADOG certifies businesses that provide more than \$10,000 in goods and services to gaming operations on any given month. The Auditor General report concluded that the certification process “helps to ensure that only those companies that are found to be suitable under the provisions of the compact are permitted to conduct business at Class III tribal casinos.”

“While its activities are consistent with the best practices nationally for both gaming and Indian gaming regulation, the Department conducts its monitoring activities more frequently than most states,” the Auditor General observed.

The Auditor General illustrated this point by reporting that the Department, through its investigator who make at least weekly visits to each facility, maintains a much more visible presence on-site at gaming operations than most other states.

In addition the Arizona Department of Gaming investigates and certifies all non-tribal gaming employees, casino management companies, suppliers and manufacturers of gaming devices and providers of gaming services. The Arizona Department of Gaming (ADOG) also makes recommendations to tribes regarding licensing tribal members. But the report explains, ADOG does not actually certify those members.

Like the State, Arizona tribes play a primary role in regulating Indian gaming. Tribes have very specific regulatory responsibilities. Tribes are solely responsible for the operation and management of all gaming facilities. As such, they are required to establish a tribal gaming office, independent of the tribal government, to regulate gaming and enforce compliance with compact provisions on a tribe’s behalf. That office, as described by the Auditor General report, must “inspect gaming facilities, approve internal control systems for the gaming operations investigate suspected, compact violations, and license gaming employees, casino management companies, manufacturers of gaming devices, and providers of gaming services.”

In addition to regulating, tribes fund the Arizona Department of Gaming so it can fulfill its duties. Arizona gaming tribes pay both gaming device assessment fees and certification fees. Gaming devices are

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assessed at \$500 per gaming device per year; certification fees for gaming employees and casino management companies are also paid to the state. These fees provide the revenue base for ADOG.

Since fiscal year 1995, the report notes, ADOG's budget has tripled and the size of its staff has doubled, although the number of gaming facilities and devices in Arizona has not grown to the same extent. "According to Department officials, when it was a new agency the Department's activities were focused on gaming operation start up, but once the gaming operations were established, it required additional staff and budget to conduct the continuing activities required by the State's compacted responsibilities," the report concludes.

The current framework, in which the tribes regulate, the State monitors and tribes fulfill the intention of IGRA by using funds to improve the health, welfare and future of their members, provides a strong system of checks and balances that is working for Indian gaming and meeting the goals of all concerned parties. Between the tribes and the Arizona Department of Gaming, 515 people are employed in gaming regulation, and more than \$25 million is spent annually to assure proper oversight. Stringent, and often demanding, this system of tribal, state and federal participation has been duly tested. In Arizona, this system has proved itself successful. Public support for limited and regulated gaming on tribal lands in Arizona reflects this reality.

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AN ANALYSIS OF THE ECONOMIC IMPACTS OF
INDIAN GAMING IN THE STATE OF ARIZONA

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June 2001

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Lexecon Inc. is an economics consulting firm with offices in Chicago, Illinois, and Cambridge, Massachusetts.

From the Summary of Results...

- Arizona Indian casinos spent an estimated \$254 million on goods and services in 2000.
- The majority of these dollars were spent within the State of Arizona.
- Indian gaming is a significant source of jobs for Arizonans. In the spring of 2001, Indian gaming employed 8,876 people. Another 448 employees were engaged in casino regulatory activities. The total number of jobs directly related to gaming was 9,324.
- These jobs go to both Indians and non-Indians. In the spring of 2001, 57% of all casino and tribal gaming regulatory jobs were held by non-Indians. The Indian proportion of the gaming-related workforce employed on a given reservation ranges from 14% to 84% depending on local market conditions and the demographics of the tribe. In short, both Indian and non-Indian communities benefit from gaming employment.
- More than \$28 million in federal and state payroll taxes were withheld by Indian nations in Arizona in 2000 on behalf of employees working in or overseeing Indian casinos. These funds were turned over to federal and state revenue agencies.
- Arizona Indian casinos indirectly generated an additional \$40 million in state and local taxes that were collected on purchases, profits, and incomes that originated from casino vendor outlays and employment.
- The multiplier effects of Indian gaming through the Arizona economy are substantial. We estimate that, in 2000, at least 14,784 in-state jobs were attributable to Indian casino operations, and those operations directly and indirectly generated at least \$468 million in economic activity within the state.

I. Introduction

The last few months have seen intensified public discussion of American Indian gaming operations in Arizona. At the heart of the debate lie questions regarding the impact of tribal gaming operations on the Arizona economy. Unfortunately, the discussion sometimes suffers from a shortage of facts and analysis. In this report, we set out to clarify some aspects of the nature of Indian gaming and to provide a gross analysis of its economic impacts. We employ newly available data on Indian casino operations around the state to provide an estimate—decidedly conservative—of the spending effects of Indian casinos on the Arizona economy.

II. Analysis

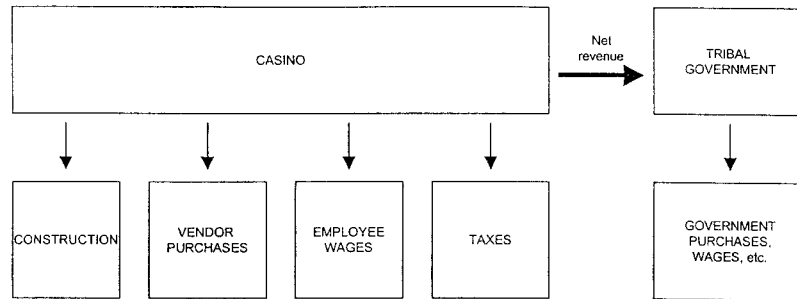
The fundamental question is this: What impact does spending by Arizona's Indian casinos have on the economy of the state?

Indian Gaming Expenditures

Figure 1 shows a schematic of the uses of Indian casino gross revenues. Consistent with its operation as a business, each casino (CASINO) must pay for capital facilities (CONSTRUCTION); goods and services required for operations and maintenance (VENDOR PURCHASES); and labor (EMPLOYEE WAGES). In addition, many tribes across the country make payments to states to reimburse them for regulatory oversight or infrastructural costs, and they incur their own costs of regulation (TAXES).¹ Consistent with its operation as a tribally owned enterprise, the casino transfers its income after these expenses (Net revenue) to the tribe that owns it (TRIBAL GOVERNMENT). This income is then spent or invested by the tribe according to the priorities that result from the operation of its political institutions. These expenditures (GOVERNMENT PURCHASES, WAGES, etc.) typically take place across an array of government services and programs: civil protection, public works, health maintenance, natural resource and land management, education, economic development, housing, and so on.

¹ In an accounting sense, the tribe's self-regulation expenditures may actually derive from a transfer of net income to the tribe rather than from a dedicated tax. From the perspective of this modeling exercise, the two are equivalent. The same is true whether the tribe or the casino pays the state for its regulatory efforts.

Figure 1
Disposition of Casino Gross Revenues



Data

The Arizona Indian Gaming Association (AIGA) gathered data from thirteen of its member tribes for three categories of casino spending: vendor outlays, employment, and taxation. For the additional two non-participating gaming tribes, AIGA estimated numbers in these categories based on other sources of knowledge and on its members' staffs' expertise in the gaming market. Table 1 presents the results of this survey and estimation exercise.

Several salient features of Indian gaming are made immediately apparent by the data in Table 1. First, Indian gaming is a large industry. Its 9,324 employees make it broadly comparable, in employment terms, to the Arizona mining sector, which in December of 2000 employed 9,700 persons.² Second, casinos represent a substantial direct source of aggregate demand as they spent an estimated \$254 million on goods and services in the most recent calendar year. Across eight of the thirteen reporting tribes, 53% of the dollars were spent in the State of Arizona.³ Eleven of the thirteen report having 6,722 relationships with vendors located in Arizona.⁴

Third, the employment benefits to households are shared almost equally between Indians and non-Indians: 5,336 non-Natives constitute 57% of the estimated total number of casino and regulatory employees (9,324). In other words, across all gaming tribes, a little more than half of the employment benefits go to non-Indians. However, individually across these tribes, the Indian proportion of total, gaming-related

² Bureau of Labor Statistics, "State and Area Employment, Hours, and Earnings," Series ID: sas0400001000011, Seasonally adjusted Arizona statewide mining, accessed at <http://146.142.4.24/cgi-bin/SeriesHist?sas0400001000011>, on May 17, 2001.

³ The eight tribes reporting expenditure data by region are: Ak-Chin, Ft. Mojave, Pascua Yaqui, Quechan, Salt River, San Carlos, Tohono O'odham, and Yavapai Apache.

⁴ These 6,722 "vendor relationships" are between Indian casinos and fewer than 6,722 unique vendors since some vendors have relationships with more than one casino.

employment varies from 14% to 84%, depending on local market conditions and the size and composition of the tribal labor force.

Table 1
Selected Attributes of Casino Spending by Arizona Tribes
\$ in millions, 2000

	Participating AIGA Members ¹	Estimated Gaming Tribe Total ²
EXPENDITURES		
<i>Casino Vendor Expenditures</i>	\$225	\$254
<i>Regulatory Expenditures</i>		
Self-regulation expenditures ³	\$18	\$21
Arizona Department of Gaming payments	\$4	\$5
TOTAL	\$247	\$279
EMPLOYMENT		
<i>Casino employees</i>		
American Indian/Alaska Native	3,613	3,785
Other	4,295	5,091
<i>Regulatory Employees</i>		
American Indian/Alaska Native	173	203
Other	173	245
TOTAL	8,254	9,324

¹ Includes: Ak-Chin, Cocopah, Ft. McDowell, Ft. Mojave, Gila River, Pascua Yaqui, Quechan, Salt River, San Carlos, Tohono O'odham, Tonto Apache, White Mountain Apache, and Yavapai Apache.

² Estimates for the Colorado River Indian Tribes and Yavapai-Prescott (not members of AIGA) provided by AIGA.

³ Includes AIGA estimates rather than actual expenditures for Gila River and Pascua Yaqui.

Data may not sum due to rounding.

Source: Arizona Indian Gaming Association.

These employees, of course, pay payroll taxes on the incomes earned at the casino. According to AIGA's survey, Indian casinos withhold an estimated \$24 million in federal income taxes for all employees. They also withhold an estimated \$4 million in State of Arizona payroll taxes for their non-Indian employees and for those American Indians and Alaska Natives who do not reside on the reservation where they work.

Table 2
Payroll Tax Withholdings
 \$ in thousands, 2000

	Participating AIGA Members	Estimated Gaming Tribe Total
Federal Income Taxes		
Casino	\$20,332	\$22,927
Regulatory	\$1,039	\$1,228
TOTAL	\$21,371	\$24,155
State Payroll Taxes		
Casino	\$3,289	\$3,792
Regulatory	\$176	\$215
TOTAL	\$3,465	\$4,006

Data may not sum due to rounding.
 Source: Arizona Indian Gaming Association.

Economic Impacts

The three categories of casino expenditure displayed in Table 1—vendor purchases, employment, and regulatory expenditures—form the basis for a gross impact modeling exercise. We ask the model: If these expenditures of Indian gaming revenue were suddenly (and instantaneously) removed from the Arizona economy, what else would disappear with them? The IMPLAN model applied here essentially re-equilibrates the economy after a decrement (or increment) of, for example, 8,876 jobs in the amusement and entertainment sector.⁵ IMPLAN reports back the multiplier effect: i.e., what the indirect consequences are across all the sectors of the economy as those employees spend their incomes and those dollars are, in turn, spent and re-spent through the economy. Table 3 displays IMPLAN's estimate of the in-state economic activity made possible by gaming establishments. It shows that \$468 million dollars of economic activity rests on Indian gaming, and 14,784 jobs are attributable to it.

Table 3
Estimated Gross Impacts of Casino-related Expenditures
 \$ in millions, 2000

Expenditures			Effect		
			Direct	Indirect	Total
Casino jobs:	8,876	→			
In-state vendor outlays:	\$135		\$324	\$144	\$468
Regulatory expenditures:	\$25		11,599	3,185	14,784
		Value Added ¹			
		Employment			

¹ Value added here refers to the impact on gross state product.
 Sources: Arizona Indian Gaming Association; Minnesota IMPLAN Group, Inc., *IMPLAN Professional: Social Accounting & Impact Analysis Software, Version 2.0* (Stillwater, MN: Minnesota IMPLAN Group, Inc., 2001).

⁵ This is the total number of jobs in the casinos alone; gaming regulatory jobs are presumed to be modeled by the regulatory expenditures of \$25 million.

It should be noted, also, that the expenditure of Indian gaming revenues on vendors, labor, and regulation (the left-hand side of Table 3) has fiscal consequences for the state. Indeed, the model estimates that of the total impact on Arizona, state and local governments reap \$40 million in tax collections—nearly nine times what the state receives in direct transfer payments from the tribal governments for regulatory oversight (\$4.5 million). These contributions to the state and local treasuries arise not out of direct tribal payments, of course, but out of the payments made by the tribe's suppliers and workers and their suppliers and workers throughout the economy. In other words, even though tribes appropriately do not pay taxes to the state (see below), their gaming operations are associated with a substantial, additional positive fiscal impact on the state.

There are a number of other ways that Indian gaming likely contributes to the state's economy that we have not been able to include in this analysis. For example, we know that many Indian gaming operations, both within Arizona and elsewhere, employ significant numbers of former welfare recipients. In particular, some tribal gaming operations are closely associated with reductions in the number of persons on welfare rolls in counties where those operations are located.⁶ This reduces state and federal taxpayer burdens. In addition, Indian nations with significant gaming net revenue obviously spend much of that revenue in numerous ways in state and local economies as they (for example) send young people to college, build houses, construct infrastructure, invest in enterprises, and work to improve the quality of reservation life.

Thus, contrary to the misperceptions of some, Indian gaming is not a drag on the Arizona economy. On the contrary, it is a substantial contributor to the Arizona economy, stimulating job creation, income, and even tax revenue.

III. Taxation of Tribal Gaming Revenues

Current debate about Indian gaming often includes the idea that Indian gaming has disrupted the Arizona economy and reduced revenue collections. While it is not within the scope of this analysis to directly rebut those claims,⁷ we want to note that the idea, often heard, that Indian gaming is not taxed is simply wrong. Indian gaming, as the diagram in Figure 1 suggests, in effect *is* taxed—at a rate of 100% of net revenues—by tribal governments themselves.

⁶ See, for example, Cornell, Stephen, Joseph Kalt, Matthew Krepps, and Jonathan Taylor, "American Indian Gaming Policy and Its Socio-Economic Effects: A Report to the National Gambling Impact Study Commission," July 31, 1998, Table 23, at 73; and, more generally, Gerstein, D., R. Volberg, H. Harwood, & E. Christansen, *Gambling impact and behavior study: Report to the National Gambling Impact Study Commission* (Chicago: National Opinion Research Center, University of Chicago, April 1999), at 71.

⁷ But see, for example, Taylor *et al.*, for a rebuttal of the claims of Professor Gary Anders and his colleagues that Indian gaming depresses Arizona transaction privilege tax collections in Maricopa County. Taylor, Jonathan, Kenneth W. Grant II, Miriam R. Jorgensen, and Matthew B. Krepps, "Indian Gaming in Arizona: Social and Economic Impacts on the State of Arizona" (Cambridge, MA: The Economics Resource Group, Inc., June 4, 1999), at 35-37.

Because the Indian Gaming Regulatory Act (IGRA) requires tribal ownership of casino operations and constrains the uses of casino net income, describing Indian gaming as “untaxed” is comparable to saying the Arizona Lottery is “untaxed.” By definition, government-owned enterprises turn over all profits to their owner governments. This is as true for Indian gaming as it is for the Arizona Lottery. Just as Lottery profits go directly into state coffers to provide services to Arizona citizens, so casino profits go directly into tribal government coffers to provide services to tribal citizens.

Furthermore, the implication in some of the current discussion that tribes should pay taxes to the State of Arizona is analogous to asking a state government to pay taxes to the United States or to another state. By way of comparison: Arizona drivers have no appropriate claim on the income that the State of Alaska derives from crude oil extraction—income gained through severance taxes that increase both Arizona’s gasoline prices and Alaskans’ personal incomes via per capita distributions. Similarly, the taxpayers of Arizona have no appropriate claim on the revenues tribal governments derive from casinos.⁸

IV. Summary of Results

Within the limitations noted below, this analysis demonstrates that Indian casinos have pronounced, positive impacts on the Arizona economy. The key findings:

- Arizona Indian casinos spent an estimated \$254 million on goods and services in 2000.
- The majority of these dollars were spent within the State of Arizona.
- Indian gaming is a significant source of jobs for Arizonans. In the spring of 2001, Indian gaming employed 8,876 people. Another 448 employees were engaged in casino regulatory activities. The total number of jobs directly related to gaming was 9,324.
- These jobs go to both Indians and non-Indians. In the spring of 2001, 57% of all casino and tribal gaming regulatory jobs were held by non-Indians. The Indian proportion of the gaming-related workforce employed on a given reservation ranges from 14% to 84% depending on local market conditions and the demographics of the tribe. In short, both Indian and non-Indian communities benefit from gaming employment.
- More than \$28 million in federal and state payroll taxes were withheld by Indian nations in Arizona in 2000 on behalf of employees working in or overseeing Indian casinos. These funds were turned over to federal and state revenue agencies.

⁸ Even if a policy justification could be found for state taxation of Indian gaming, IGRA constrains states from demanding revenues from tribes in compact negotiations beyond the reimbursement of regulatory costs the state bears to regulate Indian gaming. See, e.g., 25 USC § 2710 (d)(7)(B)(iii)(II).

- Arizona Indian casinos indirectly generated an additional \$40 million in state and local taxes that were collected on purchases, profits, and incomes that originated from casino vendor outlays and employment.
- The multiplier effects of Indian gaming through the Arizona economy are substantial. We estimate that, in 2000, at least 14,784 in-state jobs were attributable to Indian casino operations, and those operations directly and indirectly generated at least \$468 million in economic activity within the state.

Furthermore, as mentioned above and discussed in more detail below, this analysis does not include the expenditures tribal governments make with casino net incomes. This means that our numbers significantly underestimate the positive impacts of Indian gaming on the Arizona economy. In brief, the effects of Indian gaming are large and positive for the state's treasury and economy. Public policy discussions of Indian gaming need to take this fact into account.

V. Limitations of this Analysis

The foregoing analysis estimates tribal casinos' effects on Arizona's economy, state spending, and state employment. The analysis has some limitations that should be noted.

First, this analysis assesses the gross impacts of Indian gaming rather than the net impacts. That is, this is not a cost-benefit analysis. Starting with data reported by tribes and gathered by AIGA, we estimate the gross impacts of spending by Indian casinos on wages, capital, and operating inputs. A more comprehensive analysis would assess what spending habits might have been *in the absence of* Indian casinos to determine the net economic benefit of casinos. To the extent that Indian casinos in Arizona retain Arizonans' discretionary spending in-state (as compared with a situation in which Arizonans can only go to Nevada or some other, out-of-state venue to gamble), those net economic benefits will be higher.⁹ On the other hand, to the extent that Indian casinos displace other forms of consumer spending, the net economic benefit will be lower.¹⁰ However, such an analysis is beyond the scope of this immediate project.

⁹ Evidence on Arizonans' behavior indicates that this particular effect may be substantial. Nearly half of those who visit Indian casinos and who had frequented Nevada casinos in the past, visit Nevada less since the advent of Indian gaming in Arizona. Only 11% visit Nevada casinos more than they used to. Behavior Research Center, *Statewide Indian Gaming Study* (Phoenix, AZ: Behavior Research Center, 1999), at 13.

¹⁰ Contrary to what some might imagine, casino entertainment is not a "category killer" in leisure spending—that is, it does not destroy other sectors in the leisure industry. In urban contexts, for example, casinos have been shown to have lower revenues the greater the availability of other leisure spending (Ewart, Candace, and Matthew B. Krepps, "Competition for the Gaming Dollar and the Urban Casino Puzzle," presented at the 10th International Conference on Gambling and Risk-Taking, Montreal, 1998.) In rural contexts, Indian casinos in particular have been shown to have a greater destination effect on the local economy than a competition effect. That is, the effect of their attracting more visitors to their region dominates any competitive effect they have that may cause customers to substitute away from existing leisure activities (Taylor, Jonathan, Matthew B. Krepps, and Patrick

Second, the data used in this analysis are incomplete, and our results thus tend to understate substantially the gross impact of Indian gaming on the Arizona economy. Specifically, lack of access to proprietary data means our modeling does not encompass the tribal government spending made possible by casino net income. Because most tribal economies are relatively undeveloped and undiversified, and because it would not make sense economically for a tribe to produce everything that it needs, tribes depend substantially on the surrounding state's economy and other sources for the provision of capital, goods, services, and other operating inputs. Casino profits increase a tribe's ability to purchase such inputs. The bulk of such spending by a tribe typically takes place within the state where the tribe is located. Compared to multi-state casino operators whose shareholders are not concentrated in a given state, tribal casinos generally have a higher-than-average ratio of in-state economic benefits to revenues.¹¹ However, we are not able to include these expenditures in the present analysis. We also should note that the model we use in this analysis does not examine expenditures related to casino construction; these, also, often have been substantial.

Third, while we have no reason to question the quality of the data provided by tribes and gathered by AIGA, we have been unable thus far to formally audit it. Where possible, AIGA verified its estimates against the judgments of professionals in the field. In addition, we evaluated the data for internal consistency, made inquiries to some of the contributing tribes about the data they reported, and adjusted the numbers accordingly.¹²

Wang, "The National Evidence on the Socioeconomic Impacts of American Indian Gaming on Non-Indian Communities," *American Behavioral Scientist*, forthcoming).

¹¹ Gazel, Ricardo, "The Economic Impacts of Casino Gambling at the State and Local Levels," *The Annals of the American Academy of Political Science*, March 1998, at 78.

¹² Note: the data presented in Table 1 display a substantially larger impact than data reported earlier (e.g., Taylor, *et al.*). The difference arises because: i) casinos have expanded; and ii) more data in this paper was reported directly rather than estimated by pro-rationing—particularly for large casinos.

TESTIMONY OF TRACY BURRIS
CHAIRMAN OF THE OKLAHOMA INDIAN GAMING ASSOCIATION
BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS

JULY 25, 2001

Mr. Chairman, I am Tracy Burris, Chairman of the Oklahoma Indian Gaming Association and a member of the Chickasaw Nation of Oklahoma. I also serve as Gaming Commissioner for the Chickasaw Nation.

Mr. Chairman and Mr. Vice-Chairman, I want to first thank you for your leadership on behalf of Indian tribes and Indian people. On behalf of the 24 member tribes of the Oklahoma Indian Gaming Association, it is an honor for me to appear before this Committee once again.

I have been involved in Indian gaming in Oklahoma for more than 16 years, starting at the ground floor, working first as a floor worker in a tribal gaming facility, selling bingo paper and pull-tabs. I also worked in concessions and as a cashier. From there, I was made a supervisor then a manager. Today, I serve as a regulator for my Tribe, the Chickasaw Nation. Employment in gaming has helped pay my way through college and support my family. I have personally witnessed the continuing struggles of tribal gaming in Oklahoma over the years, where the only "profits" of some facilities from month to month are continued employment for their tribal members.

Today, no tribe in Oklahoma has been successful in entering into a meaningful compact with the State of Oklahoma. As a result, tribal gaming facilities in Oklahoma derive nearly all of their revenues from Class II gaming, which is limited to bingo and other games similar to bingo. Tribal Governments in Oklahoma, like many other Tribal Governments across the country, largely depend on these revenues to pay for education, housing, health care and other tribal governmental programs. Absent compacts, our survival is dependent on making bingo profitable.

One of the primary issues Indian tribes in Oklahoma face is determining whether a particular game is class II or class III. As you know, the Indian Gaming Regulatory Act defines "class II gaming" as bingo and other similar games to bingo as well as certain non-banking card games permitted under State laws. It expressly permits the use of "technologic aids" to the play of bingo and similar games, while also expressly prohibiting the play of "facsimiles of any game of chance" without a compact. Determining the difference between a class II "technologic aid" and a class III "facsimile" has been the source of great confusion. As a result, tribes have spent thousands of dollars in litigation with the United States over the classification of certain machines.

A good deal of confusion about the standards for classification comes from the National Indian Gaming Commission's definitions regulations. As stated by the U.S. Court of Appeals for the D.C. Circuit in late 2000, "Boiled down to their essence, the regulations tell us little more than that a Class II aid is something that is not a Class III facsimile."¹

The regulations define the term "facsimile" exceedingly broadly, as any game that meets the Johnson Act's definition of "gambling devices." Those of us on tribal gaming commissions that are responsible for making classification decisions understand how unworkable this definition really is.

To address this problem, the NIGC has issued a Proposed Rule that would rescind the NIGC's current definition of "facsimile". The OIGA strongly supports the proposed action as a necessary step toward bringing the NIGC's regulation out of conflict with the Indian Gaming Regulatory Act and federal court decisions.

Decisions of several federal courts of appeal make clear the need for the NIGC to reform its definitions regulations. The U.S. Court of Appeals for the D.C. Circuit in the recent *Lucky Tab II* case, *Diamond Games Enterprises v. Reno*, expressly ruled that the NIGC's definitions regulations are wholly inadequate.

[W]e have no idea what the Commission thinks about the policy questions presented by the Lucky Tab II. Not only does this leave us with no agency position to which we might defer, but *the Commission's IGRA regulations provide no assistance in interpreting the statute*. Boiled down to their essence, the regulations tell us little more than that a Class II aid is something that is not a Class III facsimile.²

The court ruled that the Lucky Tab II is a class II machine without the benefit of clearly articulated classification standards from the NIGC.

While the D.C. Circuit declined to interpret the NIGC definition regulations, the Ninth and Tenth Circuit decisions in the *MegaMania* cases demonstrate the conflict between the NIGC's "facsimile" definition and the IGRA. Both courts ruled that the Johnson Act does not extend to the play of class II games that utilize technologic aids. The Ninth Circuit stated: "Congress did not intend the Johnson Act to apply if the game at issue fits within the definition of a Class II game, and is played with the use of an electronic aid."³ The Tenth similarly ruled: "The text of IGRA quite explicitly indicates that Congress did not intend to allow

¹ 230 F.3d 365, 369 (D.C. Cir. Nov. 3, 2000) (citations omitted; emphasis added).

² 230 F.3d 365, 369 (D.C. Cir. Nov. 3, 2000) (citations omitted; emphasis added).

³ *United States v. 103 Electronic Gambling Devices*, 223 F.3d 1091, 1101 (9th Cir. 2000)

the Johnson Act to reach bingo aids."⁴ These decisions indicate that the decision of the Commission in 1993 to incorporate the Johnson Act into the regulations without stating an exception for class II games that utilize technologic aids was in error. The Johnson Act definition is far too broad, arguably encompassing any game that utilizes technologic aids, including bingo played with a bingo blower.

Recent decisions also have removed legal obstacles to reforming the facsimile definition. In a 1993 challenge to the NIGC's first set of regulations, the U.S. District Court for the District of Columbia in *Cabazon Band of Mission Indians v. NIGC* stated that the Johnson Act definition of "facsimile" was "the only definition possible in order to implement Congress' explicit intent, as expressed in IGRA."⁵ Although the D.C. Circuit affirmed the lower court, the tribes did not appeal the district court's ruling on the propriety of the definition. The D.C. Circuit effectively distinguished the statement of the *Cabazon* lower court in the recent *Lucky Tab II* decision. Its ruling that all of the NIGC's definitions were inadequate and "provide no assistance in interpreting" the IGRA directly conflicts with the lower court's statement in *Cabazon* that the current facsimile definition is not only adequate but also the exclusively so. Thus, the district court's ruling in *Cabazon* upholding the propriety of the "facsimile" definition is not controlling law. And now the NIGC is not only free to amend its regulations but obligated by principles of good government to do so.

On behalf of the OIGA, I want to thank the NIGC Commissioners for taking the necessary first step in bringing some common sense to this difficult, technical issue. I also want to thank members of this Committee who have been supportive of efforts to clarify the standards for class II gaming.

To reach real clarity, however, we believe the NIGC should take the additional step of revisiting its definition of "technologic aid", engaging in a negotiated rulemaking with the appropriate parties to develop criteria for classifying games.

Mr. Chairman and Mr. Vice Chairman, you know from your good work the value Indian people place upon the sovereignty of their tribes. In Oklahoma, certainly, the spirit and sanctity of tribal sovereignty remains very strong. While we understand that gaming brings new, sometimes unique, challenges to tribal sovereignty, it is with this first principle in mind that we view our activity. From this mind, we find it extremely difficult to accept another action of the NIGC, its proposed Classification of Games regulations.

These regulations would require the NIGC to approve each game before tribes could offer the game for play. Under current law, the NIGC has an oversight role,

⁴ *United States v. 162 Megamania Gambling Devices*, 231 F.3d 713, 725 (10th Cir. 2000).

⁵ 827 F. Supp. 26, 31 (D.D.C. 1993) *aff'd on other grounds*, 14 F.3d 633 (D.C. Cir. 1994).

but the tribal gaming commissions, whose authority comes only from the inherent sovereignty of the tribes, are the first line of regulation and have primary jurisdiction over these issues.

While we understand the need for the NIGC to develop a formal process for classifying games, one that takes away the sovereign authority of the tribal gaming commissions is unacceptable. This process would turn tribal gaming commissions into bureaucrats in a federal classification process in which the tribes would package information and analysis at tribal expense and send it on to the NIGC for a final administrative ruling. It is clear that the Congress did not intend that tribal gaming commissions would be relegated to such a role.

The records of tribal gaming commissions in Oklahoma on classifying games has been quite good, in fact. Litigation through the federal courts involving the MegaMania, Lucky Tab II, and Magical Irish Bingo machines have all been decided in favor of the tribes.

An example of tribal gaming commissions at work is that of the Cherokee Nation of Oklahoma. It spent thousands of dollars on two independent testing laboratories to review the technical components of the "Magical Irish Bingo" pull tab machine. Both of the independent laboratories and analysis by Commission attorneys concluded that the machine met the definition of a Class II device. The Cherokee Nation Gaming Commission gave its approval to play the game at their gaming facilities. Soon after, the NIGC determined that the Magical Irish Bingo machine was a class III game. A recent federal court decision in Oklahoma found that the Cherokee Nation Gaming Commission was correct in its classification decision. While the Justice Department has appealed this decision, the tribes are continuing to spend money to litigate these kinds of decisions.

Classification regulations can only be successful if the tribal gaming commissions have a meaningful role in the implementation of the regulation. I would hope the Committee would encourage the NIGC to work with tribal gaming commissions before it initiated a rule on this issue.

Mr. Chairman, and Members of the Committee, this issue of Class II gaming is of paramount importance for the Tribes in Oklahoma. We want to work with the Committee and the NIGC to bring greater clarity to the Class II definition and make the classification regulations workable in Indian Country.

Again, thank you for the opportunity to appear before you, and I would like to take this time to answer any questions you may have.

CALIFORNIA GAMBLING CONTROL COMMISSION

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May 9, 2001

TO: Gambling Control Commission

FROM: Robert Traverso, Interim Executive Director

SUBJECT: Report to Legislature for Distribution of Funds from Indian Gaming Revenue Sharing Trust Fund

ISSUE: *Can the Gambling Control Commission (Commission) make a partial distribution from the Indian Gaming Revenue Sharing Trust Fund (RSTF) with the information currently available to the Commission?*

The Commission has a fiduciary responsibility for the RSTF as Trustee of the RSTF per all of the Tribal-State Gaming Compacts (Compacts). The Compacts place certain limitations on the Commission's ability to exercise discretion when making distributions from the RSTF.¹

The State's Budget Act for FY2000-01 requires the Commission to submit a report to the Legislature containing various specified information before any distributions from the RSTF can be made.² Moreover, the Legislature would need to authorize an additional expenditure in order for the Commission to distribute funds from the RSTF (Gov.Code Section 12012.75)

¹ The Compacts state that "...each Non-Compact Tribe in the State shall receive the sum of \$1.1 million per year. In the event that there are insufficient monies in the ...RSTF]...to pay \$1.1 million per year to each Non-Compact Tribe, any available monies in ...[the RSTF]... shall be distributed to Non-Compact Tribes in equal shares." (Section 4.3.2.1(a)). These Compacts also state that "payments made to Non-Compact Tribes shall be made quarterly and in equal shares out of the ...[RSTF]. The Commission shall serve as the trustee of the ...RSTF. The Commission shall have no discretion with respect to the use or disbursement of the trust funds. Its sole authority shall be to serve as a depository of the trust funds and to disburse them on a quarterly basis to Non-Compact Tribes. In no event shall the State's General Fund be obligated to make up any shortfall or pay any unpaid claims." (Section 4.3.2.1(b))

² The Budget Act for FY2000-01 (Chap.52, Item #0855-101-0366(3)) specifies that "...the California Gambling Control Commission shall provide the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations a report identifying (1) the methodology for determining a noncompact tribe; (2) a list of the noncompact tribes identified based on the commission's methodology; (3) the methodology for determining the amount of revenue each compact tribe is required to pay into the Indian Gaming Revenue Trust Fund; (4) a trust fund condition report including the amount of revenue received from each compact tribe; and (5) the amount of funds to be distributed to each noncompact tribe. Upon receiving additional expenditure authority for distributing funds under the trust

The Commission needs to be able to identify the funds that are legitimate gaming device license fee payments to the RSTF, those that are not legitimate payments, and those that it cannot yet identify as legitimate or not-legitimate payments.

Given the partial, unaudited information currently available to the Commission from the Compact Tribes, these tribal responses to the Commission's March 22nd letter indicate that approximately \$30.2 million of the \$39.6 million are apparently legitimate gaming device license fee payments to the RSTF. However, the methodology to calculate the quarterly fees varies among the Compact Tribes. These variations significantly affect the amounts of fees calculated as owed and to be paid by the different tribes, and, in turn, the fund balance of the RSTF. Until this issue is resolved, even though some of tribes have made one-time and quarterly fee payments to the RSTF, it is not clear as to what are the correct payments that they should have made, and, in turn, what is the correct fund balance available for distribution. This issue is discussed in greater detail later in this report.

Given the language in the Compacts, given the report required by the Legislature, given that there are 18 tribes that have not yet responded to the Commission's request for needed information and, thus, can't be identified as "Compact" or "Non-Compact" for the purposes of any distribution, given the quarterly fee calculation methodology variations, and given that the Commission can only identify a portion of the funds in the RSTF as apparently legitimate gaming device license fee payments at this time, the Commission has two basic options: 1) narrowly interpret the Commission's flexibility under the Compacts and under the Budget Act and defer any effort to make a distribution until all of the information needed by the Commission is available to the Commission, or 2) take a broader interpretation of the Commission's flexibility under the Compacts and under the Budget Act, and take a fiscally-sensitive but fiscally-prudent approach, and consider a *partial distribution* at this time until the Commission can obtain and confirm the requested information from all of the Compact Tribes and Sides Accountancy (Sides), and, in turn, determine if all of the funds in the RSTF are legitimate gaming device license fee payments. If the Commission takes this approach, if no Compact Tribe legally challenges this approach, and if the Legislature authorizes the expenditure recommended in the Commission's report, *the Commission could make a partial distribution from the RSTF.*

RECOMMENDATION: *It is recommended that the Commission (1) indicate that it is not affirming at this time the manner in which the Compact Tribes calculated their quarterly fee payment, (2) that it approve the attached report to the Legislature for a proposed \$10.1 million partial distribution of the \$30.2 million in unaudited but apparently legitimate gaming device license fee payments in the RSTF to the 68 eligible non-compact non-gaming tribes and eligible non-compact gaming tribes that have submitted the requested information to the Commission (see Attachment #1), and (3) that it retain a fiscally-prudent reserve of \$20.1 million in the RSTF until the Commission has complete, audited information on which to base distributions.*

fund, the commission shall submit that information to the chairpersons of the committees on a quarterly basis concurrent with the distribution of the funds to the noncompact tribes."

BACKGROUND: The Tribal-State Gaming Compacts state that "...each Non-Compact Tribe in the State shall receive the sum of \$1.1 million per year. In the event that there are insufficient monies in the ...RSTF]...to pay \$1.1 million per year to each Non-Compact Tribe, any available monies in ...[the RSTF]... shall be distributed to Non-Compact Tribes in equal shares." (Section 4.3.2.1(a)). These Compacts also state that "payments made to Non-Compact Tribes shall be made quarterly and in equal shares out of the ...[RSTF]. The Commission shall serve as the trustee of the ...RSTF. The Commission shall have no discretion with respect to the use or disbursement of the trust funds. Its sole authority shall be to serve as a depository of the trust funds and to disburse them on a quarterly basis to Non-Compact Tribes. In no event shall the State's General Fund be obligated to make up any shortfall or pay any unpaid claims." (Section 4.3.2.1(b))

The Budget Act for FY2000-01 (Chap.52, Item #0855-101-0366(3)) specifies that "*...the California Gambling Control Commission shall provide the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations a report identifying (1) the methodology for determining a noncompact tribe; (2) a list of the noncompact tribes identified based on the commission's methodology; (3) the methodology for determining the amount of revenue each compact tribe is required to pay into the Indian Gaming Revenue Trust Fund; (4) a trust fund condition report including the amount of revenue received from each compact tribe; and (5) the amount of funds to be distributed to each noncompact tribe. Upon receiving additional expenditure authority for distributing funds under the trust fund, the commission shall submit that information to the chairpersons of the committees on a quarterly basis concurrent with the distribution of the funds to the noncompact tribes.*"

On March 8, 2001, the Governor issued Executive Order D29-01, declaring that the Commission "...is prepared to assume the responsibilities and exercise the powers conferred by ...the Gambling Control Act."

On March 13, 2001, the Governor issued Executive Order D-31-01, which specified that the Commission shall (1) administer the gaming device license draw process, (2) control, collect, and account for all license fees, and (3) ensure that the allocation of gaming devices among California Indian Tribes does not exceed the allowable number provided in the Compacts. Included within this responsibility is serving as the trustee for the Revenue Sharing Trust Fund.

On March 16, 2001, the offices of the Governor and the Attorney General mailed a letter to Sides, c/o of his attorney, "...instructing your client not to conduct any further draws or make any representations that could be construed to mean that he has Compact authority to conduct [license] draws or to issue gaming device licenses. Moreover, to the extent your client believes that he has been designated Pool Trustee and authorized by the State to conduct the license drawing, any such authority is hereby revoked." In addition, this letter states that, "we believe the Gambling Control Commission is vested with...the authority to see that the draw for machine licenses complies with State law and the tribal gaming compacts", and that the Commission "...is vested with ...the authority to issue gaming device licenses to California Indian Tribes." This letter further indicates that "in order to allow the Commission to carry out [its] duties, and its responsibilities to account for licensing fees payable to the State,...we request that you imme-

diately make arrangements to provide the information requested in this letter to the California Gambling Control Commission so that it may carry out its responsibilities as Trustee of the Revenue Sharing Trust Fund.”

Each of the 61 Tribal-State Gaming Compacts defines the “State Gaming Agency” as “...the entities authorized to investigate, approve, and regulate gaming licenses pursuant to the Gambling Control Act...” (Act). (Section 2.18) Under the Act, the Division of Gambling Control (Division) conducts license investigations, investigates suspected violations of the State’s gambling laws, and recommends disciplinary actions to the Commission of suspected violations as provided in the Act. The Gambling Control Commission (Commission) has “...jurisdiction over operation and concentration, and supervision over gambling establishments in this State, and over all persons or things having to do with the operation of gambling establishments...” The Commission’s responsibilities include (1) “...assuring that licenses, approvals, and permits are not issued to, or held by, unqualified or disqualified persons, or by persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare”, (2) requiring “...any person to apply for a license or approval...”, (3) “for any cause deemed reasonable by the Commission, deny any application for a license, permit, or approval...”, (4) specifying “...standard forms for reporting financial conditions, results of operations, and other relevant financial information.”

Each of the 61 Tribal-State Gaming Compacts also states the following:

- The Compact is “evidence [of] the goodwill and cooperation of the Tribe and State in fostering a mutually respectful government-to-government relationship that will serve the mutual interests of the parties.” (Section 1.0)
- “The Revenue Sharing Trust Fund is a fund created by the Legislature and administered by the California Gambling Control Commission, as Trustee, for the receipt, deposit, and distribution of monies pursuant to this Section 4.3.2.” (Section 4.3.2(ii))
- “The Tribe may acquire and maintain a license to operate a Gaming Device by paying into the Revenue Sharing Trust Fund, on a quarterly basis, in the following amounts...” (Section 4.3.2.2(a)(2))
- Licenses draws “...shall continue until tribes cease making draws, at which time draws will be discontinued for one month or until the Trustee is notified that a tribe desires to acquire a license, whichever occurs last.” (Section 4.3.2.2(a)(3)(vi))
- As a condition of acquiring licenses to operate Gaming Devices, a non-refundable one-time pre-payment fee shall be required in the amount of \$1,250 per Gaming Device being licensed, which fees shall be deposited in the Revenue Sharing Trust Fund.” (Section 4.3.2.2(e))
- “The Tribe shall not conduct any Gaming Activity authorized by this Compact if the Tribe is more than two quarterly contributions in arrears in its license fee payments to the Revenue Sharing Trust Fund.” (Section 4.3.2.3)

On March 22, 2001, as follow-up to this direction, the Commission mailed a letter to all of the 61 *Compact Tribes* in California to update these tribes about the Commission, and requesting various *current information* needed by the Commission to complete the required report to the State

Legislature for the distribution of funds from the Revenue Sharing Trust Fund to the Non-Compact Tribes. This letter requested that the information be submitted to the Commission by April 6, 2001. (Previous requests for similar information by the Division and the Commission did not result in a complete, consistent response from the Compact Tribes. Moreover, the information that had been received from some of the Compact Tribes was several months old, and changes had occurred in some of the tribe's operations which meant that those tribes' information needed to be updated.)

In addition, the Commission mailed a letter to all of the *Non-Compact Tribes*, dated March 21, 2001, advising them of the letter to the Compact Tribes, and "...that the Commission is aware of, and sensitive to, the importance of making the initial distribution from this Fund to you as expeditiously as possible...", and of "...the Commission's objective to make the first distribution from the Revenue Sharing Trust Fund to the Non-Compact Tribes in May, depending on the timing of the Legislature's approval of the Commission's report."

Despite the March 16th letter from the offices of the Governor and the Attorney General, a letter, dated April 3, 2001, from Sides to some of the Compact Tribes was issued notifying them that "...the upcoming draw for allocation of gaming device licenses shall take place April 30, 2001, at 11:00 am, at the Burbank Airport Hilton and Convention Center..." The Commission obtained a copy of this letter on April 9th, and, shortly thereafter, discussed response options with the Department of Justice.

The Commission, in response to the Sides April 3rd draw letter, mailed a letter to all of the Compact Tribes, dated April 11, 2001, advising the tribes that the Sides draw is unauthorized under the terms of the Tribal-State Gaming Compacts, that any licenses issued by Sides as a result of this draw would not be recognized by the State as valid licenses for the operation of gaming devices or for any other purpose under the Compacts, and that any fees paid to Sides for any participation in the draw or for any gaming device licenses as a result of this draw would not be considered by the State to be payment for any gaming device licenses under any provisions of the Compacts. The Commission also mailed a copy of this letter to Sides.

On April 16, 2001, Sides came to the Commission's offices to deliver two cashier's checks, totaling \$1,037,865.22, without any supporting detail, on behalf of "some tribes" (he advised staff that he could not remember which tribes, and that, even if he could, his confidentiality agreement with the tribes prevented him from doing so) for "some fees" paid to him by these tribes (he advised staff that he could not remember which fees, or whether they were one-time license fees or for quarterly fees). In addition, when asked if he (Sides) had a license draw in March, he indicated to Commission staff that he had sent out a letter for a draw for March but he could not remember if there actually was a draw or if any tribes actually obtained any licenses at that draw. When asked if any of the monies in the two checks he was delivering to the Commission contained any one-time license fees for gaming device licenses which may have been issued by him at the unauthorized March draw, Sides indicated that he could not remember. The two checks were tentatively accepted by staff, but staff advised Sides that, without any supporting detail, these funds would not be placed in the RSTF, but, instead, would be placed in an uncleared collections liability account in the General Services Fund by the Contracted Fiscal Services Unit of

the Department of General Services (the department currently handling the Commission's accounting services). *Moreover, if follow-up audits by the Commission demonstrate that these funds are for one-time gaming device license fees collected by Sides for any unauthorized license draws by Sides, these funds would be returned to Sides.*

On April 25th, the Commission's Acting Chief Counsel called and spoke to the Deputy Director of the Division and "...requested that agents attend the Sides draw on April 30th in Burbank, and gather as much information as possible." The Commission's Acting Chief Counsel was advised by the Division's Deputy Director that "...he'd look into it and get back to [her]." On April 26th, the Division's Chief Deputy advised the Commission's Acting Chief Counsel that "...the time frame is a little too short for us." As a result, it is the Commission's understanding from these conversations that the Division did not send any agents to attend the gaming device license draw by Sides on April 30th. I confirmed this understanding with the Division's Director on May 7th.

At a meeting on April 18th, I inquired of the Division's Director if the Division had received from all of the Compact Tribes copies of all shipping documents for all gaming devices shipped to them, and was advised that the Division had received this information. I requested a copy of this information. The Division's Director indicated that he would have the documents copied and sent to the Commission, and that it would take approximately two weeks to complete this task. This information was received on May 7, 2001. After the budget is enacted and the Commission has its auditing staff, this information will be used by the Commission's staff to help substantiate the gaming device information submitted to the Commission by the tribes.

On May 1st, I confirmed with the Division's Director that all of the Division's "field count" results and all of the written responses from the tribes to the Division on tribal gaming device license and fee information had been forwarded to the Commission, and that the Division had no other information on these issues which had not been forwarded to the Commission. (As indicated previously, this information was incomplete and, in many instances, out of date.) I also asked if the Division had done any audits of any tribal casinos for any purpose, or if the Division had received any audits of tribal casinos for any purpose, and was advised that the answer was "No" to both questions. I also advised him that, after the Commission's budget is approved, the Commission will be conducting periodic gaming device field compliance audits, as part of its State Gaming Agency licensing role and as part of its fiduciary responsibility as Trustee of the RSTF, to verify the number of gaming devices in operation and licensed.

In response to the Commission's letter to the Compact Tribes, dated March 22nd, the Commission received responses from approximately 25% of the 61 Compact Tribes by April 6th (the date by which the Commission had requested the information to be submitted). During the next four weeks, in an effort to obtain the needed information so that the Commission's report to the Legislature could be completed on a timely basis, the Commissioners and staff called every Compact Tribe that had not responded, inquired as to the status of the tribe's response to the Commission's letter, and faxed a copy of the Commission's letter to those tribes which indicated that they had not received the letter. Several of the tribes were in the process of responding and indicated that the Commission would receive the requested information shortly. As of May 9, 2001,

the status of responses to the Commission's letter to the Compact Tribes, dated March 22, 2001, is as follows:

1. 43 (70%) Compact Tribes *had responded with most or all of the requested information* (See Attachment #2), and
2. 18 (30%) Compact Tribes *had not responded with any of the requested information* (See Attachment #3).

Of the \$39,600,000 in the Revenue Sharing Trust Fund (RSTF) as of March 31, 2001, approximately \$36,300,000 (91%) of these receipts have been received from Sides. As indicated above, Sides has not provided any supporting documentation to clarify and substantiate the source, nature, correctness, or completeness of any of these receipts. More specifically, by April 25, 2001, the Commission had received *none* of the information from Sides requested by the offices of the Governor and the Attorney General, in their letter to Sides, dated March 16, 2001. As a result, the Commission mailed a letter to Sides, dated April 25, 2001, requesting Sides to submit the requested information to the Commission by May 4, 2001. As of May 9th, the Commission still has not received any response from Sides.

With respect to the "Sides information", the Commission has received clarification on the source and nature of some of these receipts from the responses from some of the Compact Tribes. Although the Commission has not yet audited the responses from the Compact Tribes, the Commission can apparently identify approximately \$30.2 million (76%) of the \$39.6 million as apparently legitimate contributions to the RSTF. However, as indicated earlier, there are various methodologies being used by the different Compact Tribes to calculate the quarterly fees owed to the RSTF. The Commission staff's methodology to calculate these fees is as follows:

- **One-time Fee:** $\$1,250 \times \text{the number of gaming device licenses issued}$
Compact Section 4.3.2.2(e):
Example: $1,000 \text{ licenses} \times \$1,250 = \$1,250,000$.
- **Quarterly Fee:** "Number of Licensed Devices" \times "Fee Per Device Per Annum"
Compact Section 4.3.2.2(a)(2):
Example: "Fee Per Device Per Annum" for 1,000 licenses devices = $(\$0 \text{ per device} \times 350 \text{ devices}) + (\$900 \text{ per device} \times 400 \text{ devices}) + (\$1,950 \text{ per device} \times 250 \text{ devices})$;
Fees Owed = $\$847,500 \text{ Per Annum} / 4 = \$211,875 \text{ Per Quarter}$.

The identified one-time fee calculation methodology variations are the following:

- Some tribes calculate this fee in the same manner as is done by Commission staff;
- In one instance, it is not clear what methodology the tribe used.

The quarterly fee calculation methodologies vary considerably among the tribes. More specifically, the principal variations are the following:

- Some tribes calculate this fee in the same manner as is done by Commission staff;

- Some tribes first reduce the “Number of Licensed Devices” by “350” to determine the “Fee Per Device Per Annum” (in the example above, this methodology would produce a fee of \$585,000 per annum = \$146,250 per quarter, calculated as follows: $1,000 - 350 = 650 \times \900)(this is **\$262,500 less per year** than the way staff calculates the fee);
- Some tribes first determine the “Fee Per Device Per Annum”, then reduce the number of devices by “350” (in the example above, this methodology would produce a fee of \$1,267,500 per annum = \$316,875 per quarter, calculated as follows: $1,000 \text{ devices} = \$1,950 \text{ per device}$; $1,000 - 350 = 650 \times \$1,950$)(this is **\$420,000 more per year** than the way staff calculates the fee);
- Some tribes determine the “Fee Per Device Per Annum”, and then calculate the fee (in the example above, this methodology would produce a fee of \$1,950,000 per annum = \$487,500 per quarter, calculated as follows: $1,000 \times \$1,950$)(this is **\$1,102,500 more per year** than the way staff calculates the fee);
- Some tribes take the position that the one-time fee is a prepayment credit against quarterly fees, and claim that they don’t owe any quarterly fees until the “credit” is “used up” (in the example above, this is **\$1,250,000 less** than the way the staff calculates the fee);
- In some instances, it is not clear what methodology the tribes used.

Clearly, these quarterly fee calculation methodology variations need to be standardized. Until this issue is resolved, even though tribes have made one-time and quarterly fee payments to the RSTF, it is not clear as to what are the correct payments that they should have made, and, in turn, what is the correct fund balance available for distribution.

The Commission has received numerous requests, suggestions and recommendations from various parties to try to make a partial distribution from the RSTF as soon as possible (for example, during various Commission meetings, during the April 25th hearing before the Assembly Budget Sub-committee #4, and during the April 25th meeting of the California Nations Indian Gaming Association).

Finally, all parties need to recognize that any distribution based on this *partial, unaudited* information may result in some over- and under-payments, that this *unaudited* information will need to be audited by the Commission after the Commission’s budget is approved, and that these distribution payments may need to be adjusted. As a result, as part of the fiscally-prudent approach, it would be essential to retain a substantial reserve until complete, audited information is available.

SUMMARY: Given the language in the Compacts, given the report required by the Legislature, given that there are 18 tribes that have not yet responded to the Commission’s request for needed information and, thus, can’t be identified as “*Compact*” or “*Non-Compact*” for the purposes of any distribution, given the quarterly fee calculation methodology variations, and given that the tribal responses only identify a portion of the funds in the RSTF as apparently legitimate gaming device license fee payments at this time, the Commission has two basic options: 1) narrowly interpret the Commission’s flexibility under the Compacts and under the Budget Act and defer any effort to make a distribution until all of the information needed by the Commission is available to the Commission, or 2) take a broader interpretation of the Commission’s flexibility under the

Compacts and under the Budget Act, and take a fiscally-sensitive but fiscally-prudent approach, and consider a *partial distribution* at this time until the Commission can obtain and confirm the requested information from all of the Compact Tribes and Sides, and, in turn, determine if all of the funds in the RSTF are legitimate gaming device license fee payments. If the Commission takes this approach, if no Compact Tribe legally challenges this approach, and if the Legislature authorizes the expenditure recommended in the Commission's report, *the Commission could make a partial distribution from the RSTF.*

It is recommended that the Commission (1) indicate that it is not affirming at this time the manner in which the Compact Tribes calculated their quarterly fee payments, (2) that it approve the attached report to the Legislature for a proposed \$10.1 million partial distribution of the \$30.2 million in unaudited but apparently legitimate gaming device license fee payments in the RSTF to the 68 eligible non-compact non-gaming tribes and eligible non-compact gaming tribes that have submitted the requested information to the Commission (see Attachment #1), and (3) that it retain a fiscally-prudent reserve of \$20.1 million in the RSTF until the Commission has complete, audited information on which to base distributions.

Robert Traverso
Interim Executive Director

Attachments

May 10, 2001

The Honorable Steve Peace
Chairman, Joint Legislative Budget Committee
California State Capitol
Sacramento, CA 95814

RE: Report on Distribution of Funds from the Indian Gaming Revenue Sharing Trust Fund

Dear Senator Peace:

Item 0855-101-0366 of Chapter 52 of the Statutes of 2000 established a process by which funds held in the Indian Gaming Revenue Sharing Trust Fund (IGRSTF) can be used to augment the \$1,000 amount appropriated by this item for distribution to non-compact tribes. At this time, the California Gambling Control Commission (Commission) has requested approval from the Director of the Department of Finance to make the first such distribution of funds from the IGRSTF for the quarters ended September 30, 2000, December 31, 2000, and March 31, 2001.

Per the statute, a report identifying five items of information was requested to be provided to the Legislature. The information requested follows:

1. The Methodology for Determining a Non-Compact Tribe

Per Section 4.3.2(a)(i) of the Tribal-State Gaming Compact (Compact), the term "Compact Tribe" and "Non-Compact Tribe" is defined as:

A "Compact Tribe" is a tribe having a compact with the State that authorizes the Gaming Activities authorized by the Compact. Federally-recognized tribes that are operating fewer than 350 Gaming Devices are "Non-Compact Tribes." Non-Compact Tribes shall be deemed third party beneficiaries of this and other compacts identical in all material respects. A Compact Tribe that becomes a Non-Compact Tribe may not thereafter return to the status of a Compact Tribe for a period of two years becoming a Non-Compact Tribe (sic).

For the first distribution from the IGRSTF, the Commission used the following procedures as the methodology for determining if a tribe is a Non-Compact Tribe:

- A. Identify all tribes in the State of California that are Federally-recognized based on information obtained from the U. S. Department of Interior, Bureau of Indian Affairs.
- B. Classify all tribes identified in step A as either: 1) Compact Tribes operating 350 or more gaming devices, 2) Non-Compact Tribes as defined by the Compact, or 3) non-compact gaming tribes.

C. Classify all Non-Compact Tribes identified in part 2) of step B as eligible Non-Compact non-gaming tribes and Non-Compact gaming tribes that have submitted the requested information per the March 22, 2001, letter from the Commission to all Compact Tribes.

D. Prepare a list of Non-Compact Tribes as identified in step C.

2. A list of the Non-Compact Tribes Identified Based on the Commission's Methodology

A list of all Non-Compact Tribes as identified by the methodology identified in item 1 above is attached as Exhibit 1.

3. The Methodology for Determining the Amount of Revenue Each Compact Tribe is Required to Pay into the Indian Gaming Revenue Sharing Trust Fund

All Compact Tribes are required to make payments into the IGRSTF in accordance with the terms of the Compact as noted in Section 4.3.2.2(a)(2) and Section 4.3.2.2(e) of the Compact. These sections of the Compact read as follows, respectively:

Sec. 4.3.2.2(a)(2) The Tribe may acquire and maintain a license to operate a Gaming Device by paying into the Revenue Sharing Trust Fund, on a quarterly basis, in the following amounts:

Number of Licensed Devices	Fee Per Device Per Annum
1-350	\$0
351-750	\$900
751-1250	\$1950
1251-2000	\$4350

Sec. 4.3.2.2(e) As a condition of acquiring licenses to operate Gaming Devices, a non-refundable one-time pre-payment fee shall be required in the amount of \$1,250 per Gaming Device being licensed, which fees shall be deposited in the Revenue Sharing Trust Fund....

4. A Trust Fund Condition Report Including the Amount of Revenue Received From Each Compact Tribe

A trust fund condition statement for the IGRSTF as of March 31, 2001, is attached as Exhibit 2. A listing of the unaudited amount of revenue received from each Compact Tribe as reported in response to the March 22, 2001, letter from the Commission is attached as Exhibit 3.

5. The Amount of Funds to be Distributed to Each Non-Compact Tribe

The amount of funds to be distributed to each Non-Compact Tribe is listed in Exhibit 1 that is attached. The amount of the partial distribution is equal to \$50,000 for each quarter that a tribe is eligible to receive a distribution.

Sincerely,

John Hensley, Chairman
California Gambling Control Commission

cc: The Honorable Deirdre Alpert, Chairwoman, Senate Appropriations Committee
The Honorable Carole Migden, Chairwoman, Assembly Appropriations Committee

EXHIBIT 2

CALIFORNIA GAMBLING CONTROL COMMISSION
INDIAN GAMING REVENUE SHARING TRUST FUND
FUND CONDITION STATEMENT
AS OF MARCH 31, 2001

ASSETS

CASH:

Cash in State Treasury	\$39,612,434.03
Total Assets	\$39,612,434.03

LIABILITIES AND FUND EQUITY

LIABILITIES	0
FUND EQUITY	\$39,612,434.03
Total Liabilities and Fund Equity	\$39,612,434.03

Exhibit 1	
Non-Compact Tribes Eligible to Receive a Partial Distribution from the IGRSTF (based on the Commission's Methodology) and the Amount of Funds to be Distributed	
Non-Compact Indian Tribe	Amount of Funds to Be Distributed
Augustine Band of Mission Indians	\$150,000
Benton Paiute Reservation	150,000
Big Lagoon Rancheria	150,000
Big Pine	150,000
Big Sandy Band of Western Mono Indians	150,000
Blue Lake Rancheria	150,000
Bridgeport Indian Colony	150,000
Buena Vista Rancheria	150,000
Campo Band of Mission Indians	150,000
Capitan Grande Reservation	150,000
Cedarville Rancheria	150,000
Chemehuevi Indian Tribe	150,000
Chico Rancheria	150,000
Cloverdale Rancheria	150,000
Cold Springs Rancheria	150,000
Cortina Rancheria	150,000
Elem Indian Colony	150,000
Enterprise Rancheria	150,000
Ewilaapaayp Tribe	150,000
Federated Indians of the Graton Rancheria	100,000
Fort Bidwell Reservation	150,000
Fort Independence Reservation	150,000
Greenville Rancheria	150,000
Grindstone Rancheria	150,000
Guidiville Rancheria	150,000
Hoopa Valley Tribe	150,000
Hopland Reservation	150,000
Inaja-Cosmit Reservation	150,000
Ione Band of Miwok Indians	150,000
Jamul Indian Village	150,000
Karuk Tribe of California	150,000
La Posta Band of Mission Indians	150,000
Lone Pine Reservation	150,000
Los Coyotes Reservation	150,000

Exhibit 1 (continued)	
Non-Compact Tribes Eligible to Receive a Partial Distribution from the IGRSTF (based on the Commission's Methodology) and the Amount of Funds to be Distributed	
Non-Compact Indian Tribe	Amount of Funds to Be Distributed
Lower Lake Rancheria	\$100,000
Lytton Rancheria	150,000
Manzanita Band of Mission Indians	150,000
Mesa Grande Band of Mission Indians	150,000
Middletown Rancheria Band of Pomo Indians	150,000
North Fork Rancheria	150,000
Pala Band of Mission Indians	150,000
Pauma/Yuima Band of Mission Indians	150,000
Picayune Rancheria	150,000
Pinoleville Reservation	150,000
Pit River Tribe	150,000
Potter Valley Reservation	150,000
Quartz Valley Reservation	150,000
Ramona Band of Mission Indians	150,000
Redwood Valley Rancheria	150,000
Resighini Rancheria	150,000
Rohnerville Rancheria	150,000
Round Valley Reservation	150,000
San Pasqual Band of Diegueno Indians	150,000
Santa Rosa Band of Mission Indians	150,000
Santa Ysabel Band of Mission Indians	150,000
Scotts Valley Rancheria	150,000
Sheep Ranch Rancheria	150,000
Shingle Springs Rancheria	150,000
Stewarts Point Rancheria	150,000
Susanville Indian Rancheria	150,000
Table Bluff Reservation	150,000
Timba-sha Shoshone Tribe	150,000
Torrez-Martinez Desert Cahuilla Indians	150,000
Trinidad Rancheria	150,000
Tuolumne Rancheria	150,000
United Auburn Indian Community	150,000
Upper Lake Rancheria	150,000
Yurok Tribe	150,000
Total	\$10,100,000

Exhibit 3	
Unaudited Amount of Revenue Reported by Each Compact Tribe in Response to the March 22, 2001 Commission Letter	
Compact Tribe	Revenue Reported
Agua Caliente Band of Cahuilla Indians	\$1,401,969
Alturas Rancheria	No Response
Augustine Band of Mission Indians	437,500
Barona Band of Mission Indians	1,611,519
Berry Creek Rancheria	437,500
Big Sandy Rancheria	250,000
Big Valley Rancheria	500,000
Bishop Paiute Tribe	No Response
Blue Lake Rancheria	0
Buena Vista Rancheria	1,812,500
Cabazon Band of Mission Indians	No Response
Cahuilla Band of Mission Indians	No Response
Campo Band	0
Chemehuevi Indian Tribe	75,000
Chicken Ranch Rancheria	No Response
Colusa Rancheria	0
Dry Creek Rancheria	No Response
Elem Indian Colony	No Response
Elk Valley Rancheria	No Response
Ewiiapaayp Tribe	1,250,000
Hoopa Valley Tribe	0
Hopland Reservation	562,500
Jackson Rancheria	612,500
Jamul Indian Village	0
La Jolla Band of Luiseno Indians	No Response
Laytonville Rancheria	No Response
Manchester Point Arena Rancheria	No Response
Manzanita Band of Mission Indians	0
Middletown Rancheria	187,500
Mooretown Rancheria	625,000
Morongo Band of Mission Indians	466,250
Pala Band of Mission Indians	2,062,500
Paskenta Band of Nomlaki Indians	No Response
Pauma/Yuima Band of Mission Indians	0
Pechanga Band of Mission Indians	833,750
Picayune Rancheria	1,562,500
Pit River Tribe	0

Exhibit 3 (continued)	
Unaudited Amount of Revenue Reported by Each Compact Tribe in Response to the March 22, 2001 Commission Letter	
Compact Tribe	Revenue Reported
Quechan Indian Nation	No Response
Redding Rancheria	\$437,500
Resighini Rancheria	0
Rincon Band of Mission Indians	No Response
Robinson Rancheria	0
Rohnerville Rancheria	0
Rumsey Rancheria	862,500
San Manuel Band of Mission Indians	No Response
San Pasqual Band of Diegueno Indians	2,071,250
Santa Rosa Rancheria	No Response
Santa Ynez Band	1,550,000
Sherwood Valley Rancheria	No Response
Shingle Springs Rancheria	0
Smith River Rancheria	No Response
Soboba Band of Mission Indians	0
Susanville Indian Rancheria	0
Sycuan Band of Mission Indians	2,436,213
Table Mountain Rancheria	2,648,188
Trinidad Rancheria	0
Tule River Reservation	435,000
Tuolumne Rancheria	314,250
Twenty-Nine Palms Band of Mission Indians	2,610,563
United Auburn Indian Community	812,500
Viejas Band of Kumeyaay Indians	1,380,050
Total	\$30,246,502

Attachment #2

**List of Compact Tribes Which Have
Submitted Responses to Gambling Control
Commission's Letter, Dated March 22, 2001**

TRIBES THAT HAVE RESPONDED TO 3/22/01 LETTER

1. Agua Caliente Band of Cahuilla Indians*
2. Augustine Band of Mission Indians*
3. Barona Band of Mission Indians*
4. Bear River Band of the Rohnerville Rancheria*
5. Berry Creek Rancheria*
6. Big Valley Band of Pomo Indians*
7. Big Sandy Rancheria*
8. Blue Lake Rancheria*
9. Buena Vista Rancheria*
10. Cahto Tribe of the Laytonville Rancheria*
11. Chemehuevi Indian Tribe*
12. Colusa Band of Wintun Indians**
13. Cuyapaipe Band of Mission Indians*
14. Hopland Band of Pomo Indians*
15. Hoopa Valley Tribe*
16. Jackson Rancheria Band of Mi-Wuk Indians*
17. Jamul Indian Village*
18. Manzanita Band of Mission Indians*
19. Middletown Rancheria*
20. Mooretown Rancheria*
21. Morongo Band of Mission Indians*
22. Pala Band of Mission Indians*
23. Pechanga Band of Mission Indians*
24. Picayune-Chuckchansi Rancheria*
25. Pit River Tribe*
26. Redding Rancheria*
27. Resighini Rancheria*
28. Rincon Band of Mission Indians*
29. Robinson Rancheria**
30. Rumsey Indian Rancheria*
31. San Pasqual Band of Diegueno Indians*
32. Santa Ynez Band of Indians*
33. Shingle Springs Rancheria*
34. Soboba Band of Mission Indians*
35. Susanville Indian Rancheria*
36. Sycuan Band of Mission Indians*
37. Table Mountain Rancheria*
38. Trinidad Rancheria*
39. Tuolumne Rancheria*
40. Tule River Indian Reservation**
41. Twenty-Nine Palms Band of Mission Indians**
42. United Auburn Indian Community*
43. Viejas Band of Mission Indians*

*Complete Responses(39)

**Partial Responses(4)

Attachment #3

List of Compact Tribes Which *Have Not*
Submitted Responses to Gambling Control
Commission's Letter, Dated March 22, 2001

TRIBES THAT *HAVE NOT* RESPONDED TO 3/22/01 LETTER

1. Alturas Rancheria
2. Bishop Paiute Tribe*
3. Cabazon Band of Mission Indians
4. Cahuilla Band of Mission Indians*
5. Campo Band of Diegueno Indians
6. Chicken Ranch Band of Mi-Wuk Indians
7. Dry Creek Rancheria
8. Elem Indian Colony
9. Elk Valley Rancheria
10. La Jolla Band of Luiseno Indians
11. Manchester Point Arena Rancheria*
12. Paskenta Band of Nomlaki Indians
13. Pauma/Yuima Band of Mission Indians
14. Quechan Indian Nation
15. San Manuel Band of Mission Indians
16. Santa Rosa Band of Tachi Indians
17. Sherwood Valley Rancheria*
18. Smith River Rancheria

*Faxed Letter(4)

**TESTIMONY ON TRIBAL GAMING REGULATION
BEFORE SENATE HEARING ON JULY 25, 2001**

**Presented by
Norman H. DesRosiers, Commissioner
Viejas Tribal Gaming Commission**

I have had the privilege of working directly for three different Tribal Gaming Commissions in two different states over the last nine-year period. I have also worked indirectly with approximately eighty Tribal Gaming Commissions nation wide, worked with State Gaming Regulators, and enjoyed an exceptional long term cooperative working relationship with the National Indian Gaming Commission (NIGC).

In all of those years of Tribal Regulation I have observed that every Tribal Government has its own unique personality, political structure or organization, customs and traditions, and individuality in how they each meet the needs of the citizenry within their own jurisdictions (commonly referred to as Tribal Members).

One thing they all have in common is a great pride in their sovereign status and an intense desire to govern and regulate their own affairs with minimal interference from State and Federal Governments.

For those Tribes engaged in gaming, the desire to regulate their own affairs is manifested in the establishment of their own Tribal Governmental Gaming Regulatory agencies (or Commissions). Although the regulatory responsibilities are relatively consistent from Tribe to Tribe as dictated by NIGC Regulations, IGRA, and various State compacts, the Commissions themselves vary widely in structure and organization depending on the size and nature of gaming facilities, numbers of gaming employees, vendors, and volumes of patronage and revenues.

The Tribal Gaming Commissions also vary widely in levels of experience, sophistication, and allocated human and economic resources. Of course, the resources committed to Tribal Gaming Commissions, much like States, is directly dependent upon budgets dictated by governmental revenues from various sources including taxes, license fees, assessments, federal grants, loans and of course revenues from gaming or other tribally owned enterprises and natural resources.

I'd like to focus for a moment on the very real commitment that the Viejas Tribal Government has made in regulating their Tribal gaming facility.

First, they have enacted a sixty-three (63) page Tribal Gaming Ordinance (law) which far exceeds the minimum ordinance requirements of IGRA or NIGC Regulations. This Ordinance establishes an Independent Gaming Commission with broad regulatory responsibilities and enforcement powers. The Tribal Gaming Commission is tasked with enforcement and compliance of all

Testimony
Page Two

Federal, State and Tribal Gaming laws and Regulations as well as IRS Codes, Building Codes and Environmental, Health and Safety Standards. The detailed description of all that we do would be far more lengthy than what we have time for here.

Next, the Tribal Gaming Commission has written and enacted one hundred and thirty eight (138) pages of Tribal Gaming Regulations, again covering issues which exceed Compact or NIGC Regulatory compliance requirements.

To fulfill just our regulatory responsibilities, the Viejas Tribe has committed the following resources.

The Tribal Gaming Commission alone, has fifty (50) budgeted positions for full time regulatory agents which includes an auditing division, compliance division, background investigations and licensing division, inspectors and investigators on the casino floor 24 hours a day, 7 days a week and surveillance officers 24/7.

Our approved budget for FY2001 was approximately \$3.1 million dollars. Our proposed budget for FY2002 is \$3.28 million dollars. (A copy of the Commission's organizational chart and budget is attached.)

Keep in mind this is to regulate only one gaming facility. This is more personnel and money committed to regulating one facility than some entire State regulatory agencies.

Also, please note that the above regulatory resource commitments do not include the casino's capital investment of over three (3) million dollars in the latest surveillance equipment and technology and over five (5) million dollars budgeted to support a one hundred and eighty (180) man security department.

As one can imagine, if all the numbers are added up for what each individual Tribe commits to gaming regulation I think it is safe to speculate that it would exceed what all State and Federal gaming regulatory agencies combined spend on gaming regulation.

In closing, it is my opinion that the scope of NIGC's "oversight" responsibilities do not require any further expansion with one possible exception; that being to assist Tribes with processing fingerprints on the principals of vendors or businesses whom we must background and license. Otherwise, NIGC's role should continue to be that of monitoring Tribal Gaming Commissions to ensure that the Tribes are fulfilling their regulatory responsibilities as the "primary regulators" as specified in IGRA.

Thank you for the opportunity to testify before you on this matter. It has indeed been a great privilege and honor.

**VIEJAS TRIBAL GAMING COMMISSION
BUDGET FOR FISCAL YEAR 2001**

'00	'01	Rvs'd		'00	'01	Rvs'd
COMPENSATION:						
1	1	1	Commissioner -----	\$ 82,500-----	\$ 95,000-----	\$ 95,000
1	1	1	Deputy Commissioner-----	\$ 70,000-----	\$ 72,800-----	\$ 72,800
1	1	1	Executive Assistant-----	\$ 30,305-----	\$ 31,520-----	\$ 32,000
0	1	1	Secretary II @ \$11.00 per hr.-----	\$ 0 -----	\$ 22,000-----	\$ 22,000
1	1	1	Licensing Specialist -----	\$ 26,000-----	\$ 27,040-----	\$ 27,040
1	1	1	Surveillance Director -----	\$ 68,900-----	\$ 71,600-----	\$ 65,000
3	3	4	Surveillance Supervisor @ \$43,680 each -----	\$126,000-----	\$131,040-----	\$174,720
0	0	5	Surveillance Officer III @ average \$39,000 each-----	\$ 0 -----	\$ 0 -----	\$195,000
6	7	5	Surveillance Officers II @ average \$36,000 each -----	\$204,000-----	\$247,000-----	\$180,000
8	7	4	Surveillance Officers I @ average \$28,000 each-----	\$180,000-----	\$163,800-----	\$112,000
0	1	1	Surveillance Technician II @ \$18.50 p.h.r. -----	\$ 0 -----	\$ 36,000-----	\$ 38,480
0	1	1	Surveillance Technician I @ \$16.00 p.h.r.-----	\$ 0 -----	\$ 25,000-----	\$ 33,280
0	0	4	Inspector III @ average \$39,000 each -----	\$ 0 -----	\$ 0 -----	\$156,000
0	10	3	Inspector II @ average \$36,400 each -----	\$350,000-----	\$364,000-----	\$109,200
0	0	2	Inspector I @ average \$34,000 each -----	\$ 0 -----	\$ 0 -----	\$ 68,000
1	1	1	Card Grader-----	\$ 21,800-----	\$ 22,672-----	\$ 22,672
0	1	1	Chief Licensing/Background-----	\$ 0 -----	\$ 42,000-----	\$ 42,000
0	0	2	Background Investigator III @ average \$39,000 each -----	\$ 0 -----	\$ 0 -----	\$ 78,000
5	4	1	Background Investigator II @ average \$36,000 each -----	\$180,000-----	\$149,760-----	\$ 36,000
0	0	1	Background Investigator I @ average \$32,000 each -----	\$ 0 -----	\$ 0 -----	\$ 32,000
0	1	1	Chief Compliance Officer-----	\$ 0 -----	\$ 48,000-----	\$ 49,000
0	0	2	Compliance Officer III @ average \$45,500 each -----	\$ 0 -----	\$ 0 -----	\$ 91,000
4	3	1	Compliance Officers II @ average \$41,000 each -----	\$160,000-----	\$124,800-----	\$ 41,000
0	1	1	Chief Auditor-----	\$ 0 -----	\$ 55,000-----	\$ 58,000
3	3	3	Auditors @ average \$52,000 each -----	\$150,000-----	\$156,000-----	\$156,000
0	1	1	MIS Specialist-----	\$ 0 -----	\$ 55,000-----	\$ 55,000

Sub-Total	\$1,644,400	\$1,940,032	\$2,041,192
Incentive	\$ 0	\$ 255,235	\$ 285,767
Payroll Tax	\$ 0	\$ 241,041	\$ 255,149
Benefits	\$ 0	\$ 91,894	\$ 97,977
Total Compensation	\$2,203,496	\$2,522,041	\$2,680,085

	'00	'01	Rvs'd
Office Furnishing	\$20,000	\$20,000	\$ 20,000
Equipment(i.e. Fax, Phones, Computers, etc.)	\$20,000	\$15,000	\$ 20,000
Fingerprinting Machine	\$ 5,000	\$ 5,000	\$ 5,000
Test Equipment	\$ 5,000	\$ 2,000	\$ 5,000
Office Supplies	\$12,000	\$12,000	\$ 12,000
Printing	\$ 6,000	\$ 8,000	\$ 8,000
Vehicle Lease/Insurance	\$ 6,500	\$ 0	\$ 0
Relocation Costs	\$ 6,000	\$ 6,000	\$ 6,000
Travel	\$18,000	\$20,000	\$ 24,000
Training, Conferences, Registration Fees	\$12,000	\$12,000	\$ 20,000
Hosting State and National Regulator's Meetings	\$20,000	\$20,000	\$ 20,000
TRW and Background Services	\$110,000	\$110,000	\$100,000
Organizational Memberships, Subscriptions	\$ 2,000	\$ 2,000	\$ 2,000
Phone Service \$2,000 per month x 12	\$ 24,000	\$ 24,000	\$ 24,000
Auditors/Consultants/Attorneys	\$ 90,000	\$100,000	\$100,000
Postage(\$300.00 per month x 12)	\$ 3,600	\$ 3,600	\$ 3,600
Miscellaneous	\$ 10,000	\$ 10,000	\$ 10,000
Sub-Total	\$ 370,100	\$369,600	\$ 379,600
Grand Total	\$2,573,596	\$2,891,641	\$3,059,685

VIEJAS

TRIBAL GOVERNMENT
GAMING COMMISSION

July 27, 2001

The Honorable Daniel K. Inouye
United States Senate, SH 722
Senate Indian Affairs Committee
Washington, D.C. 20510

Dear Mr. Chairman,

First, let me say that it was an honor and privilege to have been able to attend your hearing on July 25, 2001, regarding oversight of Indian gaming regulation.

I thought that the Tribal testimony was excellent. My old friend Mr. Keller George of the New York Oneida Nation and I have been competing for years for bragging rights on who has the best Tribally regulated gaming facility.

For your testimonial records I have enclosed narrative on my views of Tribal Gaming Regulation, a copy of our Gaming Commission Organizational Chart, a copy of our Tribal Commission's approved budget for FY2001, a copy of our Tribal Gaming Ordinance and Regulations (both documents include Compact and NIGC requirements by reference but far exceed those State and Federal requirements), a copy of our public awareness brochure on the Gaming Commission and how it is regulated, and a copy of a brief biography depicting my background and qualifications.

I hope you will agree, after reviewing all of the testimony and evidence submitted, that Tribal Gaming Commissions are becoming very sophisticated and are effectively regulating at the Tribal level.

With a couple of very limited exceptions, I do not believe that there is a need for further expansion of the National Indian Gaming Commission's (NIGC) role in the oversight or monitoring of the Tribal Regulatory agencies, the primary regulators. The exceptions would be:

- 1) Temporary assistance in clearing the backlog of background investigations on management contractors.
- 2) The legislated authority to "assist" (when and how requested) Tribal regulators in conducting backgrounds on vendors. (Tribal Regulators would still be the licensing authority and decision maker, not NIGC.)

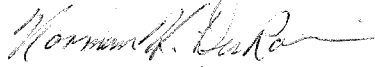
July 27, 2001
Page Two

I do not believe that NIGC needs more involvement in regulating Class III gaming. That matter should be between the Tribes and States in their compacting negotiations.

Finally, if IGRA is to be amended at all, the primary concern should be a remedy for Tribes to engage in Class III gaming (within the limits of Cabazon) when a State refuses to negotiate a Compact.

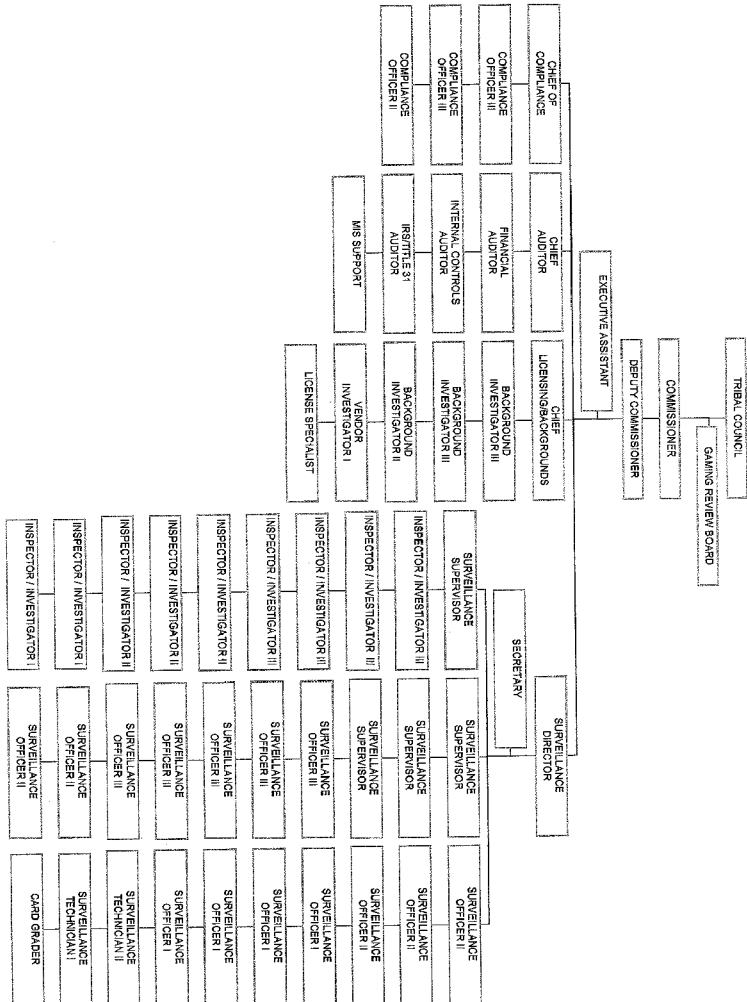
Thank you for the opportunity to submit this written testimony, opinion, and documentary evidence. Your continued support is very much appreciated by us at Viejas and all of Indian Country.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Norman H. DesRosiers".

Norman H. DesRosiers
Commissioner

BUDGETED GAMING COMMISSION ORGANIZATIONAL CHART



Norman H. DesRosiers, Biography

Degree in Law and Justice, Central Washington State University

10 years Law Enforcement

Member and former Secretary/Treasurer of the San Carlos Tribal Bar Association

'93-'94 Inspector and training supervisor at Fort McDowell Tribal Gaming Commission

'94-'98 served as Vice President of the Arizona Tribal Gaming Regulators Alliance

Member and former Treasurer of the National Tribal Gaming Commissioners/Regulators Organization

'94-98 Executive Director San Carlos Apache Tribal Gaming Commission

'98 - present Commissioner for the Viejas Tribal Gaming Commission

Member of the Federal Advisory Committee to the National Indian Gaming Commission for Environmental, Health and Safety Regulations.

Tribal Gaming Ordinance
Of the
Viejas Band of Kumayaay Indians

Adopted on

July 31, 1998

Date

By Resolution No. 073198

TRIBAL GAMING ORDINANCE

For the

VIEJAS BAND OF KUMEYAAY INDIANS

CHAPTER I

DEFINITIONS

Section 1.01 Definitions. Unless a different code meaning is clearly indicated, the terms used in this Code shall have the same meaning as defined in the "Indian Gaming Regulatory Act," Public Law 100 §497, 102 Stat. 2467, codified at 25 U.S.C. §§ 2701 et. Seq. (Oct. 17, 1988).

Section 1.02 "Calendar Year" means the period beginning on the first day of January at 12:00:01 and ending the immediately following December 31 at 12:00 o'clock midnight

Section 1.03 "Chairman" means the Chairman of the National Indian Gaming Commission.

Section 1.04 "Class I Gaming" means:

- (a) Social games played solely for prizes of minimal value; or
- (b) Traditional forms of Indian gaming when played by individuals in connection with tribal ceremonies or celebrations.

Section 1.05 “Class II Gaming” means:

(a) Bingo or lotto (whether or not electronic, computer, or other technologic aids are used)
when players:

- (1) Play for prizes with cards bearing numbers or other designations;
- (2) Cover numbers or designations when objects, similarly numbered or designated,
are drawn or electronically determined; and
- (3) Win the game by being the first person to cover a designated pattern on such
cards;

(b) If played in the same location as bingo or lotto, pull-tabs, punch boards, tip jars, instant
bingo, and other games similar to bingo;

(c) Non-banking card games that:

- (1) State law explicitly authorizes, or does not explicitly prohibit, and are played
legally anywhere in the state; and
- (2) Players play in conformity with state laws and regulations concerning hours,
periods of operation and limitations on wagers and pot sizes;

Section 1.06 “Class III Gaming” means all forms of gaming that are not Class I Gaming
or Class II gaming including but not limited to:

(a) Any banking game including but not limited to:

- (1) Card games such as baccarat, chemin de fer, blackjack (21), and pai gow
(if played allowing only one person or entity the opportunity to bank);

(2) Casino games such as roulette, craps, and keno;

(b) Any gaming device as defined in 15 U.S.C. 117 (a) (1) and electronic or

electromechanical facsimiles of any game of chance;

(c) Any sports betting and pari-mutuel wagering including but not limited to wagering on horse racing, dog racing or jai alai; or

(d) Lotteries.

Section 1.07 "Collateral agreement" means any contract, whether or not in writing, that is related, either directly or indirectly, to a management contract or to any rights, duties or obligations created between a tribe (or any of its members, entities, or organizations) and a management contractor or subcontractor (or any person or entity related to a management contractor or subcontractor).

Section 1.08 "Commission" means the National Indian Gaming Commission.

Section 1.09 "Compact" means any agreement reached between the Tribe and the State of California pursuant to 25 U.S.C. §2710 (d) and approved by the Secretary of the Interior. Any such agreement shall affect the scope and regulation of Class III gaming activities only.

Section 1.10 "Electronic, computer or other technologic aid" means a device such as computer, telephone, cable, television, satellite or bingo blower and that when used--

(a) is not a game of chance but merely assists a player or the playing of a game;

(b) is readily distinguishable from the playing of a game of chance on an electronic

electromechanical facsimile; and

(c) is operated according to applicable Federal communications law.

Section 1.11 "Electronic or electromechanical facsimile" means any gambling device as defined in 15 U.S.C. 117 (a) (2) or (3).

Section 1.12 "Game similar to bingo" means any game that meets the requirements for bingo under Section 1.05 (a) of this part and that is not a house banking game under Section 1.06 of this part.

Section 1.13 "Gaming employee" means any person employed by the Viejas gaming operation engaged in the conduct of Class II or Class III Gaming activity as well as any primary management official or key employee.

Section 1.14 "Gaming operation" means each economic entity that is licensed by a tribe, operates the games, receives the revenues, issues the prizes, and pays the expenses. A gaming operation may be operated by a tribe directly, by a management contractor, or, under certain conditions, by another person or other entity. The operation also includes all ancillary Casino activities which enhance or support the gaming operation.

Section 1.15 "House banking game" means any game of chance that is played with the house as a participant in the game, where the house takes on all players, collects from all losers, and pays all winners, and the house can win.

Section 1.16 "Indian lands" means:

- (a) Land within the limits of an Indian reservation; or
- (b) Land over which an Indian tribe exercises governmental power and that is either--
 - (1) Held in trust by the United States for the benefit of any Indian tribe or individual; or
 - (2) Held by an Indian tribe or individual subject to restriction by the United States against alienation.

Section 1.17 "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians that the Secretary recognizes as--

(a) Eligible for the special programs and services provided by the United States to Indians because of their status as Indians and

(b) Having powers of self-government.

Section 1.18 "Key employee" means:

(a) A person who performs one or more of the following functions:

- (1) Bingo caller, supervisor, cashier;
- (2) Counting room supervisor; and count and drop personnel;
- (3) Chief of security; and security personnel;
- (4) Custodian of gaming supplies or cash;
- (5) Floor manager;
- (6) Pit boss;
- (7) Dealer;
- (8) Cashier;
- (9) Croupier;
- (10) Approver of credit;
- (11) Any employee engaged in finance or accounting functions,
- (12) Custodian of gambling devices including persons with access to cash and

Accounting records within such devices;

(b) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or

(c) If not otherwise included, the four most highly compensated persons in the gaming operation.

Section 1.19 "Management contract" means any contract, subcontract, or collateral agreement between an Indian tribe and a contractor or between a contractor and a subcontractor if such contract or agreement provides for the management of all or part of a gaming operation.

Section 1.20 "Net revenues" means gross gaming revenues of an Indian gaming operation less--

(a) Amounts paid out as, or paid for , prizes; and

(b) Total gaming – related operating expenses, excluding management fees.

Section 1.21 "Non-gaming employee" means any employee of the gaming operation who is not a gaming employee, primary management official or key employee. Non-gaming employees shall also be licensed by the Tribal Gaming Commission in accordance with any limitations, restrictions or regulatory requirements deemed appropriate by the Commission.

Section 1.22 "Person having a direct or indirect financial interest in a management contract" means:

(a) When a person is a party to a management contract, any person having a direct financial interest in a management contract;

(b) When a trust is a party to a management contract, any beneficiary or trustee;

(c) When a partnership is a party to a management contract, any partner;

(d) When a corporation is a party to a management contract, any person who is a director or who holds at least 10% of the issued and outstanding stock alone or in combination with another stockholder who is a spouse, parent, child or sibling; or

(e) When an entity other than a natural person has an interest in a trust, partnership or corporation that has an interest in a management contract, all parties of that entity are deemed to be persons having a direct financial interest in a Management contract.

Section 1.23 "Person having management responsibility for a management contract" means the person designated by the management contract as having management responsibility for the gaming operation, or a portion thereof.

Section 1.24 "Primary management official" means

(a) The person having management responsibility for a management contract;

(b) Any person who has authority:

(1) To hire and fire employees; or

(2) To set up working policy for any portion of the gaming operation; or

(c) The chief financial officer or other person who has financial management responsibility.

Section 1.25 "Secretary" means the Secretary of the Interior.

Section 1.26 "Viejas Tribal Gaming Office" (also known as the Viejas Gaming Commission) means the Viejas Tribe Gaming Office, established as the Tribal Governmental Gaming regulatory agency.

Section 1.27 “Viejas Tribal Gaming Agent” means any of the members or employees of the Viejas Tribal Gaming Office, or Commission.

Section 1.28 “Council” means the Viejas Tribal Council.

Section 1.29 “Commissioner” means the Commissioner of the Viejas Tribal Gaming Office appointed by the Council as the chief administrator of Viejas Tribal gaming regulatory agency.

Section 1.30 “Tribe” means the Viejas Band of Kumeyaay Indians. Additionally, any definitions set forth in any provisions of a compact signed by the Tribe and the State of California are adopted as if set forth at his point.

Section 1.31 “Viejas Gaming Review Board” means a three member board appointed by the Council for the review and approval of Tribal Gaming regulations promulgated by the Commissioner and to hear and decide appeals relating to licensing actions, impositions of fines and patron disputes.

Section 1.32 “Words and Terms” tense, number and gender. In constructing the provisions of this Code, save when otherwise plainly declared or clearly apparent from the context;

- (a) words in the present tense shall include the future tense;
- (b) words in masculine, feminine and neuter genders shall include all genders;
- (c) words in the singular shall include the plural, and in the plural shall include the singular.

Section 1.33 “Working Days” means Monday through Friday except for Federal or Tribal holiday.

*CHAPTER II**ORDINANCE*Section 2.01 Purpose.

The Viejas Band of Kumeyaay Indians (hereinafter "Tribe"), a Federally recognized Sovereign Indian Tribe hereby enacts this ordinance to authorize and set the terms for Class II and Class III gaming operations on Tribal lands.

Section 2.02 Gaming Authorized.

Class II gaming as defined in the Indian Gaming Regulatory Act, P. L. 100-447, 25 U.S.C. Section 2703 (7) (a) ("IGRA") and by the regulations promulgated by the National Indian Gaming Commission at 25 C.F.R. § 502.3 (as published in the Federal Register at 57 FR 12382-12393, April 9, 1993) is hereby authorized. Additionally, all forms of Class III gaming set forth in any Compact between the Tribe and the State of California are authorized.

Section 2.03 Ownership of Gaming.

The Tribe shall have the sole propriety interest in and responsibility for the conduct of any gaming operation authorized by this ordinance (unless the Tribe elects to allow individually owned gaming).

Section 2.04 License Required.

A Tribal license shall be required for each place, facility, or location on Tribal lands where gaming occurs pursuant to 25 C.F.R. § 522.4 (b) (6).

Section 2.05 Use of Gaming Revenues.

A. Net revenues from Class II and Class III gaming shall be used only for the following purposes: to fund Tribal Government operations and programs; provide for the general welfare of the Tribe and its members; promote Tribal economic development; donate to charitable organizations; or help fund operations of local government agencies.

B. If the Tribe elects to make per capita payments to Tribal members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior under 25 U.S.C. § 2710 (b) (3).

Section 2.06 Audit.

A. The Tribe shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the National Indian Gaming Commission.

B. All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services, shall be specifically included within the scope of the audit that is described in subsection A. above.

Section 2.07 Protection of the Environment and Public Health and Safety.

Class II and Class III gaming facilities shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

Section 2.08 Licenses for Class II and Class III Key Employees and Primary Management Officials, and Gaming Employees, and Non-Gaming Employees.

All gaming employees, non- gaming employees, key employees and primary management officials shall apply for and be granted a Tribal gaming license prior to employment in the gaming operation. The Tribe shall ensure that the policies and procedures set out in this section are implemented with respect to anyone employed at any Class II or Class III gaming enterprise operated on Indian lands:

A. Definitions:

For the purpose of this section, the following definitions apply:

1. Key employee means:

(a) A person who performs one or more of the following functions:

- (1) Bingo caller, supervisor, cashier;
- (2) Counting room supervisor, personnel, and drop team personnel;
- (3) Chief of security, and all security personnel;
- (4) Custodian of gaming supplies or cash;
- (5) Floor manager;
- (6) Pit boss;
- (7) Dealer;
- (8) Croupier;
- (9) Any Cashier;

- (10) Approver of credit; or
- (11) Any employee engaged in finance or accounting functions;
- (12) Custodian of gambling devices including persons with access to cash and accounting records within such devices;

(b) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or

(c) If not otherwise included, the four most highly compensated persons in the gaming operation.

2. Primary management official means

- (a) The person having management responsibility for a management contract;
- (b) Any person who has authority:
 - (1) to hire and fire employees; or
 - (2) to set up working policy for any portion of the gaming operation; or
- (c) The chief financial officer or any other person who has financial management responsibility.

B. Application forms

1. The following notice shall be placed on the application form for a gaming employee, non-gaming employees, key employee, or a primary management official before that form is filled out by an applicant:

“In compliance with the Privacy Act of 1974, the following information is provided:

Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq.

The purpose of the requested information is to determine the eligibility of individuals

to be employed in a gaming operation. The information will be used by National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a tribe or a Gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to hire you in a gaming employee, non-gaming employee, primary management official or key employee position."

"The disclosure of your Social Security Number(SSN) is voluntary. However, failure to supply a SSN may result in errors in processing application."

2. The following notice shall be placed on the application form for a key employee or primary official before that form is filled out by an applicant.

"A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. (U.S. Code, Title 18, section 1001.)"

3. Existing gaming employees, non-gaming employees, key employees and primary management officials who have not filled out applications with the privacy act notice or false statement notice as described in section 2.08, B, 1 and 2 above shall be notified in writing that they

shall either:

- (a) Complete a new application which contains the appropriate privacy act notice and/or false statement notice; or
- (b) Sign a statement that contains the privacy act and/or false statement notice.

C. Background Investigation: No license shall be granted to any person or entity who has been determined to be a person or entity whose prior activities, criminal record, if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or by the carrying on of the business and financial arrangements incidental thereto.

1. License Application Minimum Requirements:

- (a) the Tribe shall request from each license applicant all of the following information:
 - (1) Full name, other names used (oral or written), social security number (s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
 - (2) Currently and for the previous 10 years; business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;
 - (3) The names and current address of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (a) (2) of this section;

- (4) Current business and residence telephone numbers;
- (5) A description of any existing and previous business relationships with Indian Tribes, including ownership interests in those business;
- (6) A description of any existing and previous business relationships with the gaming industry generally, including ownership interest in those business;
- (7) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- (8) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
- (9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
- (10) For each criminal charge (excluding minor traffic charges), whether or not there is conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (A) (8) or (A) (9) of this section, the criminal charge, the name and address of the court involved and the date and disposition;
- (11) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- (12) A current photograph;

(13) Any other information the Tribe deems relevant; and

(14) Fingerprints consistent with procedures adopted by the Tribe according to 25 C.F.R. § 522.2 (h). Fingerprints shall be required for employees defined as key employees and primary management officials only unless otherwise requested by the Tribal gaming commission.

Section 2.09 Background Investigation of License Applicants Pursuant to Section 522.2 (b) of the Rules and Regulations of the National Indian Gaming Commission. The Tribe shall conduct an investigation sufficient to make a determination under Section 2.11. below. In conducting a background investigation, the Tribe or its agent shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

1. Pursuant to any approved compact between the Tribe and the State of California any applicable procedures for Tribal licensing and/or State licensing or certification of all gaming employees for the conduct of Class III gaming are hereby adopted and incorporated by reference.

2. The minimum procedures for conducting background investigations on license applicants are:

- a. Criminal history check;
- b. Civil history check;
- c. Financial and credit check;
- d. Reference check;
- e. Previous business and employment check;
- f. Relative check;
- g. Business and personal associates check;

- h. Educational verification;
 - i. Document the disposition of all potential problem areas noted and disqualifying information needed.
 - j. Any other investigation deemed necessary or appropriate by the Tribal Gaming Office.
3. The Tribal Gaming Commissioner is primarily responsible for the conduct of the background investigations and suitability determinations in consultation with the National Indian Gaming Commission;
4. The Tribal Gaming Commission shall be responsible for conducting, reviewing and either approving or disapproving the investigative work;
5. The Tribal Gaming Commissioner is responsible for reporting the results of the background investigations to the National Indian Gaming Commission for key employees and primary management officials only.
6. For the purposes of obtaining necessary fingerprints for processing, the Tribal Gaming Commissioner and designated agents shall have Tribal law enforcement authority.
7. Suitability determination and selection of Gaming Office members is more specifically Set forth later in this ordinance.
8. The investigative reports shall set forth, in detail, the:
- a. Steps taken in conducting the background investigation;
 - b. Results obtained;
 - c. Conclusions reached;
 - d. The basis for those conclusions.

Section 2.10 Application Fee. The Gaming Office shall set a fee for applications, background investigations and licenses. All such fees shall be made payable to the Viejas Tribe and delivered to the Viejas Tribal Treasurer.

Section 2.11 Eligibility Determination. The Tribal Gaming Office shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a Gaming license applicant. If the Gaming Office determines that licensing of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, or jeopardizes the integrity or reputation of the Tribe or its Gaming Operation, a license shall not be granted.

Section 2.12. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission.

1. When a key employee or primary management official begins work at a gaming operation authorized by this ordinance, the Gaming Commission shall forward to the National Indian Gaming Commission a completed application for a gaming license and conduct the background investigation and make the determination referred to in Section 2.11.
2. The Tribal Gaming Commission shall forward the report referred to in Section 2.13 to the National Indian Gaming Commission within 60 days after an employee begins work or within 60 days of the approval of this ordinance by the Chairman of the National Indian Gaming Commission.
3. The gaming operation shall not employ as a key employee or primary management

official a person who does not have a license.

Section 2.13 Report to the National Indian Gaming Commission.

1. Pursuant to the procedures set out in section 2.09, the Tribal Gaming Office shall prepare and forward the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:

- a. Steps taken in conducting a background investigation;
- b. Results obtained;
- c. Conclusions reached; and
- d. The bases for those conclusions.

2. The Gaming Commission shall submit, with the report, a copy of the eligibility determination made under Section 2.11.

3. If a license is not issued to an applicant, the Gaming Commission:

- a. Shall notify the National Indian Gaming Commission;
- b. may forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.

4. With respect to license applicants, the Tribal Gaming Office shall retain applications for licensing and employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date denial or revocation of a license, or termination of employment, whichever is later.

Section 2.14 Granting a Gaming License.

1. If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Tribe that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe may issue a license to such applicant.

2. The Tribe shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30-day period under paragraph 1. of this section until the Chairman of the National Indian Gaming Commission receives the additional information.

3. If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribe has provided an application and investigative report to the National Indian Gaming Commission, the Tribe shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission. The Tribe shall make the final decision whether to issue a license to such applicant.

Section 2.15 License Suspension.

1. If, after the issuance of a gaming license, the Tribe receives from the National Indian Gaming Commission or other source, reliable information indicating that a key employee or a primary management official is not eligible for employment under subsection 3 above, the Gaming Commission shall suspend such license and shall notify in writing the licensee of the suspension and

the proposed revocation.

2. The Gaming Commission shall notify the licensee of a time and place for a hearing on the proposed revocation of a license.

3. After a revocation hearing, the Gaming Commission shall decide to revoke or to reinstate a gaming license. The Gaming Commission shall notify the National Indian Gaming Commission of its decision.

Section 2.16 *Class III Gaming*. In addition to the above, any Tribal-State licensing and/or certification requirements and procedures for Tribal licensing and/or State certification or licensing in a Compact between the Tribe and State of California are adopted and incorporated herein by reference.

Section 2.17 *Repeal*.

Upon approval of this gaming ordinance by the Chairman of the National Indian Gaming Commission all prior gaming ordinances enacted by the Tribe are hereby repealed.

CHAPTER III

ADMINISTRATION AND ENFORCEMENT

Section 3.01 Unauthorized Gaming. Any person who commits any act of unauthorized gaming on this reservation shall be in violation of this Ordinance and shall be prosecuted in the appropriate court of competent jurisdiction. Prosecution for such a violation in other than Federal court is not meant to be exclusive; a finding of guilt or innocence shall not deprive the Federal government from jurisdiction.

Section 3.02 Ownership- Revenues to Benefit Tribe. The Tribe shall have the sole proprietary interest in, and sole responsibility for, the conduct of the gaming activity. Such provision does not, however, limit the Tribe's ability to enter into a management contract wherein net profits are divided between the Tribe and other parties to the contract. The Tribe's share of net revenues will go entirely to the Tribe and will be used solely for the following purposes:

- (a) to fund Tribal government operations or programs;
- (b) to provide for the general welfare of the Tribe and its members;
- (c) to promote Tribal economic development;
- (d) to donate to charitable organizations; or
- (e) to help fund operations of local government agencies.
- (f) Net revenues from the gaming establishment may be used to make per capita payments to members of the Tribe pursuant to a plan approved by the Secretary of the Interior.

Section 3.03 Establishment of the Viejas Gaming Review Board. The Viejas Gaming Review Board is hereby established. The Gaming Review Board shall consist of three (3) members appointed by a majority vote of the Council. A Board Member shall serve for three (3) years and may be removed from office prior to the end of their term only for cause and by a unanimous vote of Council. In order to establish annually staggered terms, the first Board members shall be appointed by the Council as follows: one (1) member shall serve a three (3) year term, one (1) shall serve a two (2) year term, and one (1) shall serve a one year (1) year term for the initial appointment terms only. Thereafter, all successive terms of appointment shall run for three (3) years. Vacancies shall be filled within thirty (30) days by the Council.

Section 3.04 Review Board Qualifications for Membership. Each member shall have a minimum of a four (4) year college degree and eight (8) years of experience in accounting, gaming management or gaming regulation, or eight (8) years of law experience, or an equivalent combination thereof. Each member shall be subject to the same background and licensing standards as currently required for top-level Casino management positions according to this ordinance and NIGC regulations. No person shall be eligible to serve as a Viejas Gaming Review Board member who has been convicted or is currently being prosecuted for any crime of moral turpitude or any felony. Viejas Gaming Review Board members may not be concurrently employed in any gaming operation, may not concurrently hold any elected Tribal office, and may not be related to any person employed by the Tribal Gaming Operation. Board members and their immediate family members may not engage in any gaming activity at the Viejas Tribal Gaming operation. For the purpose of this section "relative" or "immediate family member" shall be defined as mother, father,

(including step, adopted, or in-law for all), son, daughter, brother, sister, grandparent, niece, nephew, , uncle, aunt and first cousins.

Section 3.05 Purpose and Authority of Review Board. The gaming review board shall be responsible for the review and approval of any Tribal gaming regulations promulgated by the Commission under the authority of this ordinance. In addition, the review board shall serve as a final appeal board to review any disputes between patrons and the gaming operation as well as review and/or hear any appeals for any contested licensing actions or fines imposed by the Commission.

Section 3.06 Compensation for Review Board Members. Gaming Review Board members shall be paid a stipend at a rate to be established annually by the Gaming Office budget, and approved by the Tribal Council. Initially the stipend shall be at the rate of \$350.00 per member per meeting. Board members shall be reimbursed for actual expenses incurred on Gaming Office business, including necessary travel expenses. In no event shall compensation be based on a percentage of net profits from gaming operations of the Tribe.

Section 3.07 Selection of Chairperson. The review board shall select annually from its membership a chairperson, who shall chair all necessary hearings and meetings. If the chairperson determines that a meeting must be continued or postponed, the chairperson may set the time and date for additional meeting/hearing times. The Chairperson shall communicate the scheduling of all meetings/hearings with the Gaming Commissioner.

Section 3.08 Meetings/Hearings. The review board shall not meet more than twice per month unless deemed necessary by the Chair person or at special request of the Commissioner. Should additional meetings be necessary, the Board Chairman and Commissioner shall concur on mutually agreeable dates and times. Meeting and hearings shall take place on the Viejas reservation. Meetings and hearing proceedings shall have official minutes recorded by the secretary or administrative assistant of the Commission. Records of board meetings and hearings shall be exempt from state subpoena.

Section 3.09 Quorum – Majority Vote. A quorum shall consist of all three (3) members of the review board. All decisions shall be made by a majority vote of the Board members.

Section 3.10 Establishment and Authority of the Tribal Gaming Commission. The Viejas Tribal Gaming Commission is hereby established. The Gaming Commission (also referred to as Gaming Office) shall exercise all powers necessary to effectuate the purposes of this Code. The Gaming Commission may exercise any proper power and authority necessary to perform the duties assigned to it by this Code, and is not limited by the enumeration of powers in this chapter. The Gaming Commission shall promulgate rules and regulations for the operation of any gaming establishment and shall hear and resolve all disputes regarding any provision of the Code. In all decisions, the Gaming Commission shall act to promote and ensure integrity, security, honesty, and fairness of the operation and administration of gaming and ancillary activities of the gaming operation. The Gaming Commission shall have the power and authority to deny any application; to limit, condition, suspend, or restrict any license; make a finding of suitability or approval of a license, or find suitable the imposition of a fine upon any person or entity licensed, for any cause

deemed reasonable by the Gaming Commission.

Section 3.11 *Monthly Report*. The Gaming Commissioner shall make at least monthly reports to the Council within thirty (30) days after the close of the month for which the information is being required. The report shall at a minimum include a full and complete statement of auditing activities, expenses and all other financial transactions of the Commission and summary of all licensing and enforcement actions.

Section 3.12 *Prior Notice of Actions*. In promulgating, amending, and repealing regulations, the Gaming Commission shall give prior notice of the proposed action to all licensees and other persons whom the Commissioner has reason to believe have a legitimate and bona fide interest in such proposed action. Said notice shall inform such persons as to the general nature of the proposed actions and advise them as to the manner in which comments on said proposed action shall be received by the Gaming Commission. Upon receipt of input and comments from affected parties the Commissioner shall schedule a meeting with the Review Board and present proposed regulations for approval and adoption. Any disagreements between parties affected by the proposed regulations and the Commission will be considered by the Review Board prior to adoption. In emergencies, the Gaming Commission may summarily adopt, amend or repeal any regulation if at the time the Commissioner determines such action is necessary for the immediate preservation of the public peace, health, safety, morals, and good order or general welfare, together with a statement of facts constituting the emergency; provided the Gaming Commissioner and Review Board shall schedule such emergency action for a regular hearing as soon as possible not to exceed thirty (30) days after any such emergency action.

Section 3.13 Request for Review Board Action. The General Manager of the Gaming operation may file a petition in a manner and form approved by the Gaming Review Board requesting the amendment or repeal of a regulation. Upon receipt of the petition, the Chair of the Gaming Review Board shall within thirty (30) days schedule the matter for Consideration by the Review Board pursuant to this chapter, and shall immediately forward a copy of the petition to the Gaming Commissioner. The Chair of the Gaming Review Board will consult with the Gaming Commissioner before ruling on any petition and will schedule the matter for hearing only if the Gaming Review Board disagrees with the Gaming Commissioner's recommendation.

Section 3.14 Due Process, Appealing Commission Actions. Any Commission decision resulting in approving, disapproving, revoking, suspending, limiting or conditioning a license, or the imposition of other sanctions under this Code shall be made by the Commissioner. Should an applicant or licensee disagree with the determination of the Commissioner, the Commissioner shall schedule a hearing with the Review Board to review the decision, within thirty (30) working days from the date an applicant files his/her written appeal with the Gaming Commission.

Section 3.15 Review Board's Findings. Following such hearing, the Review Board shall, within three (3) working days reach a determination concerning:

- (a) the accuracy of the facts presented at the hearing;
- (b) whether the license in question should be granted, denied, reinstated suspended, revoked, conditioned, or limited; and
- (c) whether any other action recommended to the Review Board including, but not limited to fines and forfeitures, should be taken

Section 3.16 Notification of Review Board Decision. Within ten (10) working days following this determination, the Review Board shall inform the subject and the Commission in writing of the determination. The determination of the Review Board shall be final and not subject to further appeal.

Section 3.17 Appointment of Commissioner. The Council shall appoint a Commissioner who shall be responsible for the day-to-day management of the affairs of the Gaming Commission as well as overseeing the establishment and operation of all gaming activities for compliance with all applicable Federal, State and Tribal gaming laws and regulations. A detailed background investigation shall be conducted on the Commissioner before his/her appointment. The Commissioner shall report directly and only to the Tribal Council. No one convicted of a felony of any kind or misdemeanor related to gambling or moral turpitude can serve as Commissioner. The Commissioner shall have no personal interest in the gaming activity. Neither the Commissioner nor any Commission employees may gamble in the gaming establishment nor have any personal financial interest in any gaming establishment patron.

Section 3.18 Commissioner's Contract. The Commissioner shall be hired on a contract. The terms of the contract will be negotiated with the Tribal Council and approved by the Council. The Commissioner's compensation shall be part of the negotiations. Compensation for the Commissioner shall not be based, in whole or in part, on the profitability of the gaming operation.

Section 3.19 Termination of Commissioner. The Commissioner shall be terminated immediately and without the necessity of a vote of the Council upon the Commissioner's conviction in a Federal or State court of competent jurisdiction for any felony, or for any misdemeanor related

to gambling or moral turpitude, or upon conviction of any charge that the Council finds relates to the Commissioner's honesty or ability to fulfill his/hers duties. If the Commissioner is convicted of violating any part of this Code, he/she shall be immediately terminated. Additionally, the Commissioner may be terminated for inadequate performance of the duties required, or may additionally be terminated for associations or conduct that would tend to bring the Commissioner's integrity or gaming operation into disrepute.

Section 3.20 Duties of Commissioner. The Commissioner shall perform all duties, exercise all powers, assume and discharge all responsibilities, and carry out and effect all purposes of this Code relating to the regulation of all gaming activity. In all decisions, the Commissioner shall act to promote and ensure integrity, security, honesty, and fairness of the operation and administration of all gaming activity. The Commissioner's duties shall include but not be limited to the following:

- (a) Negotiating contracts for payments by the Tribe for the provision of security, surveillance, outside independent auditing services. Such contracts must be approved by the Council and shall not constitute a waiver of jurisdiction by the Tribe;
- (b) Correspond with the National Indian Gaming Commission and do whatever is necessary to ensure compliance with the rules and regulations of that agency. Specifically, the Commissioner, with approval of the Tribal Council, shall arrange for an annual outside audit of authorized gaming and will provide a copy to the National Indian Gaming Commission.
- (c) The Commissioner will assure that all gaming activity is conducted in a manner which adequately protects the environment and the public's health and safety;
- (d) The Commissioner will ensure that background investigations are conducted

pursuant to section 2.09 on all primary management officials, key employees, gaming employees and non-gaming employees of any gaming establishment and that oversight of such officials and their management is conducted on an ongoing basis. The Commissioner will make suitability determinations on the granting of Tribal licenses for all of the gaming operation employees. The Commissioner shall immediately notify the National Indian Gaming Commission of the issuance of such licenses for primary management officials and key employees. The Commissioner will review all license applications and background investigations to ensure that no person shall be eligible for employment if that person's prior activities, criminal record (if any), or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming or jeopardize the integrity or reputation of the Tribe or its Gaming Operation. The Commissioner shall notify the National Indian Gaming Commission of the results of such background checks before the issuance of such licenses to primary management officials and key employees.

(e) Hiring, pursuant to the approval of the Tribal Council, such professional, clerical, technical and administrative personnel as may be necessary to carry out the provisions of this Code.

(f) Inspect, review and copy all records, documents, equipment and facilities, or anything else necessary and pertinent to enforcement of any provisions of this Code.

- (g) Make decisions and execute any sanctions on any person subject to the jurisdiction of this Code, as deemed necessary, appropriate and lawful.

Section 3.21 Right of Inspection. The Commissioner and his/her agents, inspectors, and employees have the authority:

- (a) to inspect and examine all premises wherein gaming is conducted or gambling devices or equipment are used, manufactured, sold or distributed;
- (b) To inspect all equipment and supplies in, upon or about a gaming establishment, or inspect any equipment or supplies wherever located, which may, or have been used in the gaming establishment;
- (c) Summarily to seize and remove from a gaming establishment (or wherever located) and impound such equipment or supplies for the purpose of examination, inspection, evidence, or forfeiture;
- (d) to demand immediate access to and inspect, examine and audit all papers, books, and records of applicants and licensees, and require verification of income and all other matters affecting the enforcement of the policy of or any of the provisions of this Code;
- (e) To seize and impound any patron's winnings which the Gaming office has reason to believe may have been won or obtained in violation of this Code pending a civil forfeiture hearing on such seizure;
- (f) The Review Board members and the Commissioner shall each have full power and authority to issue subpoenas and compel the attendance of witnesses for hearing at any place within the Reservation, to administer oaths and to require testimony

under oath. Any process or notice may be served in the manner provided for service of process and notices in civil actions. The Review Board and the Commissioner may pay such transportation and other expenses of witnesses as it may deem reasonable and proper. Any licensee failing to comply with any subpoena shall be subject to immediate revocation of their gaming license.

Section 3.22 Confidentiality of Information. Each member of the Viejas Gaming Review Board and each employee of the Tribal Gaming Commission shall be required to sign a confidentiality agreement, and will be responsible for ensuring the strictest standards of confidentiality with respect to all information. All information provided to the Viejas Gaming Review Board and Gaming Commission and all information obtained by the Board and Tribal Gaming Commission in the performance of its duties, shall be kept confidential and shall not be disclosed to any person or organization without the written consent of the Viejas Tribal Council. The Review Board and the Commissioner may refuse to reveal, in any court proceeding the identity of any informant, or the information obtained from the informant, or both the identity and the information.

Section 3.23 Powers of Delegation. The Viejas Tribal Gaming Commission may organize itself into a functional division as it may deem necessary and from time to time alter such plan of organization as it may deem expedient. The Tribal Commission shall establish its own budget for operations, and acquire such furnishings, equipment, supplies, stationery, books, motor vehicles, and other things as it may deem necessary or desirable in carrying out its functions, and incur such other expenses within the limit of funds available to it, as it may deem necessary. Within the limits of a Council approved budget, the Gaming Commission shall employ and fix the salaries of or contract

for the services of such professional, technical and operational personnel and consultants as the execution of its duties and the operation of the Gaming Commission may require. At the Council's discretion, said budget may be reviewed and modified by the Council every six (6) months. Upon the end of the budget year, any surplus which might exist shall revert to the Tribal Government. The Commissioner shall keep and maintain a file of all applications for licenses under this chapter, together with a record of all actions taken with respect to such applications. The Commissioner shall keep and maintain such other files and records as he/she may deem desirable.

Section 3.24 Sanctions. Any person who engages in activities on property subject to the provisions of this Gaming Code without a license, in violation of any license or terms imposed thereon, in violation of terms of suspension, or in violation of the Code, including any person who unlawfully trespasses upon any premises licensed by this Code without the consent of the licensee and/or the Gaming Office shall be in violation of this code and be subject to sanctions in accordance with the provisions of Section 3.26 hereinafter.

Section 3.25 Limitations Period. No fine shall be assessed nor any action taken for any violation under the preceding section unless the action is initiated within two (2) years of the commission of the offense.

Section 3.26 Violations of Code – Punishment. Any violation of this Code may be punished by a fine of no more than Five Thousand Dollars (\$5, 000.00) for each separate count or violation. Each day of violation shall constitute a separate count or violation under this Code. A violator may also be required to pay costs, storage fees, and auction or sales fees. All property used or which may be used in activities in each and every separate violation of this Code may become the property

of the Tribe; persons may be prohibited from trespassing on premises licensed under this Code, licenses may be suspended, revoked, or limited and gaming establishments may be closed. All such action shall be taken at the discretion of the Gaming Commission, subject to the right of appeal to the Viejas Gaming Review Board. Winnings found to have been received in violation of this Code shall be forfeited and become the property of the Tribe.

Section 3.27 Due Process Regarding Enforcement Actions. The Gaming Commission shall promulgate regulations protecting due process rights of all individuals subject to the enforcement of this Code. Such regulations shall, at a minimum:

- (a) provide standards for emergency or summary suspension of license;
- (b) provide fair notice and opportunity for hearing before the Gaming Commission regarding any revocation or suspension of license, and regarding any enforcement action taken pursuant to this Code; and
- (c) provide the right to appeal, de novo, any Gaming Commission disciplinary or enforcement action to the Viejas Gaming Review Board.

Section 3.28 Patron Disputes.

- (a) Refusal to Pay Winnings. Whenever the Gaming Facility Operator refuses payment of alleged winnings or machine credits to a patron, and the Gaming Facility Operator and the patron are unable to resolve the dispute to the satisfaction of the patron, and the dispute involves:
 - (1) At least five hundred dollars (\$500), the Gaming Facility Operator shall immediately notify the Tribal Gaming Commission. The Tribal Gaming Commission shall conduct whatever investigation it deems necessary and shall determine whether payment should be made; or

(2) Less than five hundred dollars (\$500) and the patron and operator do not come to an agreement, the Gaming Facility Operator shall inform the patron of his or her right to request that the Tribal Gaming Commission conduct an investigation. Upon request of the patron, the Tribal Gaming Commission shall conduct whatever investigation it deems necessary and shall determine whether payment should be made.

(b) Notice to Patrons. The Tribal Gaming Commission shall mail written notice by certified mail, return receipt requested, to the Gaming Facility Operator and the patron of the decision resolving the dispute within thirty (30) days after the date that the Tribal Gaming Commission first receives notification from the Gaming Facility Operator or a request to conduct an investigation from the patron. Such notice shall include an explanation of the decision.

(c) Effective Date of Decision. The decision of the Tribal Gaming Commission is effective on the date it is received by the aggrieved party as reflected on the return receipt.

(d) Review of Decision. Within thirty (30) days after the date of receipt of the written decision, the aggrieved party may file a petition with the Gaming Review Board. Upon receipt of the petition the Chair of the Review Board shall immediately forward a copy of the petition to the Gaming Commissioner. The Gaming Review Board shall promulgate procedures to determine whether patron disputes are eligible for a hearing and for the conduct of any hearing. The Gaming Review Board shall take into consideration the prior decision and other documentation provided to it by the patron, the Gaming Commission, and the Gaming Facility Operator. The Chairman of the Review Board shall then issue a written decision and mail it to the parties

pursuant to the procedures set forth in Section 3.28 (b). The decision of the Viejas Gaming Review Board shall be final and binding upon the patron and the Gaming Facility Operator and shall not be subject to judicial review, dispute resolution or other legal action.

Section 3.29 Independence of Gaming Office. The Commissioner, Commission Employees, members of the Council and their immediate families shall receive no personal compensation, gift, reimbursement or payment of any kind from any person doing or wishing to do business with the Tribe relating to gaming nor with any person wishing to obtain an unfair advantage in any authorized wager on gaming. Any property received in violation of this provision, including cash payments, shall be immediately forfeited to the Tribe and the offending persons shall be prosecuted to the fullest extent possible. The Gaming Commission shall cooperate to the fullest extent possible with any Federal or State law enforcement agency to pursue prosecution under applicable Federal or State law.

*Chapter IV**Licensing*

Section 4.01 Issuance of Tribal Gaming Licenses. The Gaming Office shall consult with appropriate law enforcement officials concerning any gaming licenses it may issue. If, after issuance of a gaming license by the Gaming Commission Office, reliable information is received that a licensed employee does not meet the standard established under Section 2.11 of this Code, the Gaming Office shall suspend such license.

Section 4.02 Non – Transferability of License. Any license issued pursuant to the provision of this Code is valid only for the person or entity at the place of business shown on the face thereof. It is not assignable or otherwise transferable to any other person or entity for any other location without approval of the Commissioner.

Section 4.03 Granting of License. The Commission, upon completion of appropriate background investigation and suitability determination shall either grant or deny a license. The issuance of a license shall be done only provided that,

- (a) A completed license application has been received;
- (b) All applicable licensing fees have been paid;
- (c) No objection has been raised by Federal or State Gaming Officials.

Section 4.04 Suitability Determination, License Denial. The Commissioner may not grant a license to any applicant who has been convicted of any felony or gaming offense. The Commissioner may deny a license to any applicant (employee or vendor), or may suspend or revoke the license of any employee or vendor who:

(a) has knowingly and willfully provided false statements or information or omitted material information on his or her license application or background questionnaire;

or

(b) is determined to be a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, and methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto, or jeopardizes the integrity or reputation of the Tribe or its Gaming Operation; or

(c) has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by any provision of this ordinance, the Compact, or any provision of any Federal, State, or Tribal Gaming Regulations, or when any such violation has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control;

(d) knowingly causes, aids, abets, or conspires with another to cause any person or entity to violate any of the laws of this State or the applicable rules of the State or Tribal Gaming Office, or the provisions of the Compact;

(e) has obtained a State Gaming license or certification or Tribal license by fraud, misrepresentation, concealment or through inadvertence or mistake;

(f) has been convicted of ,or forfeited bond upon a charge of, or plead guilty to, forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payment or reports to any Government, whether Tribal, State, or the United States; or

of any crime, whether a felony or misdemeanor, involving any gaming activity, misappropriation of funds or physical harm to individuals or moral turpitude;

(g) makes a misrepresentation of, or fails to disclose a material fact to the Federal, State, or the Tribal Gaming Regulatory authorities;

(h) is subject to current prosecution or pending charges, or a conviction which is under appeal, for any of the offenses included under subsection (f) of this Section; provided that the Gaming Commission may defer decision upon the application during the pendency of such prosecution or appeal;

(i) has had a gaming license issued by any State or Tribe in the United States revoked or denied;

(j) has demonstrated a willful disregard for compliance with Gaming Regulatory authority in any jurisdiction, including suspension, revocation, denial of application or forfeiture of license;

(k) has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal laws of any state if such pursuit creates probable cause to believe that the participation of such person in gaming or related activities would be detrimental to the proper operation of an authorized gaming or related activity in this State. For the purposes of this paragraph, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain;

(l) is a career offender or a member of a career offender organization or an associate of a career offender or career offender organization in such a manner which

creates probable cause to believe that the association is of such a nature as to be detrimental to the proper operation of the authorized gaming or related activities in this State. For the purpose of this paragraph, career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purposes of economic gain utilizing such methods as are deemed criminal violations of Tribal law, Federal law or the laws and the public policy of this State. A career offender organization shall be defined as any group of persons who operate together as career offenders;

(m) is a person whose prior activities, criminal record, if any reputation, habits and associations pose a threat to the public interest of the Tribe or to the effective regulation and control of Gaming, or creates or enhances the dangers of unsuitable, unfair or illegal practices, methods, and activities in the conduct of gaming, or the carrying on of the business and financial arrangements incidental thereto; or
 (n) fails to provide any information requested by Tribal Gaming Office within fourteen (14) days of the request for the information.

Section 4.05 Licenses and Regulation of Class III Gaming Activities; Tribal – State Compact Compliance. The Gaming Office shall follow each, every, and all of the requirements for licensing and regulation of Class III gaming pursuant to the terms and conditions of any compact between the Tribe and the State of California.

Section 4.06 Failure of Applicant to Disclose Material Information. An applicant for licensing shall make true and full disclosure of all information to the Gaming Commission necessary or appropriate to carry out the policies of this Tribe relating to licensing and control of the gaming operation. It is the duty of the applicant to disclose all information material to whether the applicant's involvement with gaming would jeopardize or compromise the Tribal interest, whether or not the applicant has been specifically requested to provide that information. It shall constitute a violation of this Code to fail to disclose, to mislead or to misstate any such material information to the Commission.

Section 4.07 Temporary Employment Licenses. The Gaming Commission may issue a temporary license to any person or entity applying for a license to work in or do business with a licensed gaming establishment which shall be valid pending the completion of a background investigation of the applicant. In no event shall such temporary license be valid for longer than 180 days.

Section 4.08 Parameters of Licenses. Violation of any material provision of this Code or any of the Gaming Office's regulations by a licensee, its agent, or employee shall be deemed contrary to the public health, safety, morals, good order and general welfare of the Viejas Tribe and the inhabitants of the Viejas Reservation, and shall be deemed grounds for refusing to grant or

renew a license, suspension or revocation of a license, or shall constitute grounds for the imposition of sanctions by the Gaming Office or Commissioner. If the Commission elects to resolve disputes in a manner other than revocation of a license, such agreement shall be made in writing and supersede any conflicting provisions of this section, so long as the agreement provides a reasonable avenue for the Tribe to ensure a licensee's compliance with all other aspects of this Gaming Code. Acceptance of a gaming license or renewal on the part of the licensee shall constitute the licensee's agreement to be bound by all regulations and conditions of the Commission or Gaming Office and by the provisions of this Code as the same are now, or may hereafter be amended or promulgated, and to cooperate fully with the Commissioner and Gaming Office. It is the responsibility of the licensee to keep informed of the contents of such regulations, amendments, provisions, and conditions, and ignorance thereof will not excuse violations. All licenses shall have not more than a two year duration and will require renewal thereafter in accordance with procedures set forth by the Commission.

Section 4.09 Licensing of Vendors. The Gaming Office may authorize, require, and issue such licenses as the Gaming Office by regulation may provide, to any person or entity to engage in the selling, distributing, or otherwise supplying of gambling equipment or paraphernalia, gaming services, and any other equipment, supplies, materials, etc. for use in connection with the licensed Gaming Facility or operation.

Section 4.10 Licensing of Gaming Facility. Each Tribal Gaming Facility shall be licensed by the Tribal Gaming Commission. Prior to the issuance of a facility license the Gaming Commissioner shall:

- (a) determine that the facility is constructed in conformance with all applicable

building codes;

(b) ensure that Security and Surveillance systems are in place to adequately provide for the safety and security of employees and patrons and for the protection of Tribal assets;

(c) ensure that all employees are properly licensed and that the facility is otherwise in compliance with all applicable gaming laws and regulations.

Section 4.11 *License Fees*. Licensing fees shall be established by the Commission and approved by the Tribal Council.

Section 4.12 *Gaming Commissioner and Commission Employees*. The Gaming Commissioner and employees shall not require licensing unless otherwise provided for by a Compact. However eligibility for employment will be at least as stringent as that for any licensing of a primary management official, including full background checks.

*CHAPTER V**MANAGEMENT CONTRACTS**Section 5.01 Gaming Commission Approval Required.*

(a) Any management contractor shall be licensed by the Tribal Gaming Office. Prior to licensing any management contract entered into by the Tribe for the operation and management of any class II and/or Class III gaming activity must be submitted to the Gaming Commission for approval, but before approving such contract, the Gaming Commission shall require and obtain the following information:

- (i) the name, address, and other additional pertinent background information on each person or entity (including all officers and management officials comprising such entity) having direct financial interest in, or management responsibility for such contract and in the case of a corporation, those individuals who serve on the board of directors of such corporation and each of its stockholders who hold (directly or indirectly) 10 % or more of its issued and outstanding stock;
- (ii) a description of any previous experience that each person listed pursuant to subsection (i) has had with other gaming contracts with Indian tribes or with the gaming industry generally, including specifically the name and address of any licensing or regulatory agency with which such person has had a contract relating to gaming.
- (iii) Any further or additional information as may be required under a Tribal/State Compact entered into between the Tribe and the State;
- (iv) Any further or additional information as may be required under existing rules and regulations for management contracts required pursuant to IGRA;

(b) Any person listed pursuant to subsection (a) (i) shall be required to respond to such written or oral questions that the Gaming Commission may propound in accordance with its responsibilities under this section.

(c) For purposes of this Code, any reference to the management contract described in CFR 25 Section 5.01

(a) shall be considered to include all collateral agreements to such contract that relate to the gaming activity.

(d) After the Gaming Commission has given its approval of a management contract, the Gaming Commission shall submit such contract to the National Indian Gaming Commission for its approval. Any such contract shall be void until the National Indian Gaming Commission has approved it.

Section 5.02 Approval of Management Contracts. The Gaming Commission may approve any management contract entered into by the Tribe pursuant to this Chapter only if it determines that such contract provides at least:

(a) for adequate accounting procedures that are maintained, and for verifiable financial reports that are prepared for the Council on a monthly basis;

(b) for access to the daily operations of the gaming operation to appropriate Tribal officials who shall also have a right to verify the daily gross revenues and income made from any such Tribal gaming activity;

(c) for a minimum guaranteed payment to the Tribe that has preference over the retirement of development and constructions costs;

(d) for an agreed ceiling for repayment of development construction costs;

(e) for a contract term not to exceed five years, except that, upon the request of the Tribe, the

gaming Commission may authorize a contract term that exceeds five years but does not exceed seven years if the Gaming Commission is satisfied that the capital investment required, and the income projections, for the particular gaming activity require additional time;

(f) for grounds and mechanisms for terminating such contract, but actual contract termination shall not require the approval of the National Indian Gaming Commission;

(g) for preference to Tribal members and non-member Indians in hiring of employees for the gaming establishment.

(h) for all which may be required by the IGRA.

Section 5.03 Percentage of Net Revenue Fees.

(a) A management contract providing for a fee base upon a percentage of the net revenues of a Tribal gaming activity may be approved by the Gaming Commission if such percentage fee is reasonable in light of surrounding circumstances. Except as provided in this Section, such fee shall not exceed 30% of the net revenue;

(b) Upon request of the Council, the Gaming Commission may approve a management contract providing for a fee upon a percentage of the net revenue of a Tribal gaming activity that exceeds 30% but not more than 40% of the net revenues if the Gaming Commission and Council are satisfied that the capital investment required, and income projections, for such Tribal gaming activity require the additional fee.

Section 5.04 Contract Disapproval. The Gaming Commission shall not approve any contract if it determines that:

(a) Any person listed pursuant to CFR 25 Section 5.01 (a) (i):

(i) is an elected member of the council;

- (ii) has been or subsequently is convicted of any felony or gaming offense;
 - (iii) has knowingly and willfully provided materially important false statements of information to the Gaming Commission or the Tribal officials who negotiate such contracts or has refused to respond to questions propounded pursuant to CFR 25 Section 5.01 (b); or
 - (iv) has been determined to be a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidents thereto;
- (b) The management contractor has, or has attempted to unduly interfere or to influence for its gain or advantage any decision or process of Tribal government relating to gaming activity;
- (c) The management contractor has deliberately or substantially failed to comply with the terms of this management contract or the provisions of this Code or any regulations adopted pursuant to this Code or the Indian Gaming Regulatory Act.

Section 5.05 *Modifying or Voiding Contract.* The Gaming Commission, after notice and hearing, shall have the authority to require appropriate contract modifications or may void any contract if it subsequently determines that any of the provisions of this Chapter have been violated. If the Tribe elects to contractually agree to resolve disputes in a manner other than the revocation of a license, such contractual agreement shall supersede any conflicting provisions of this section, so

long as the agreement provides a reasonable avenue for the Tribe to ensure a licensee's compliance with all other aspects of this Gaming Code.

Section 5.06 Conveying Interest in Land. No management contract for the operation of a gaming activity regulated by this Code shall transfer or, in any other manner, convey any interest in Tribal land or other real property.

Section 5.07 Fee for Investigation Cost. The Gaming Commission shall require a potential Contractor to pay a fee to cover the actual cost of the investigation necessary to reach a determination required in Section 5.04 of this Chapter.

Section 5.08 Dispute Resolution. If any dispute arises as to the proper compliance with or interpretation of the foregoing Sections of this chapter and appendices, the procedures set forth in this Section shall apply.

(a) Notice. The party asserting noncompliance or seeking an interpretation shall serve written notice on the other party or parties. The notice shall identify the specific Ordinance provision alleged to have been violated or in dispute and shall specify in detail the factual basis for the alleged noncompliance or the proffered interpretation of the Ordinance provision for which interpretation is sought.

(b) Voluntary Resolution. Representatives of the Tribe and the other party or parties shall meet within ten (10) days following receipt of the notice in an effort to resolve the dispute.

(c) Arbitration Procedures. If the dispute is not resolved to the satisfaction of the parties within thirty (30) days after service of the notice set forth above, the dispute shall be adjudicated through arbitration in California or such other place as the parties may agree as follows:

(1) The parties shall attempt to agree upon one arbitrator with expertise in the

subject matter of the dispute.

- (2) If the parties are unable to agree on an arbitrator, each party shall select an arbitrator within ten (10) days of the commencement of the arbitration and the two (2) arbitrators shall mutually appoint a third arbitrator within twenty (20) days of their appointment. If the two (2) arbitrators are unable to agree on the appointment of a third arbitrator within twenty (20) days, the third arbitrator shall be appointed by the American Arbitration Association.
- (3) The arbitrator(s) shall confer with the parties immediately after appointment to determine an arbitration schedule including whether and to what extent discovery is required. The arbitrator(s) may set the matter for an evidentiary hearing or oral argument, or may dispose of the dispute based upon written submission only.

(d) Arbitration Costs. The cost of arbitration shall be borne equally by the parties, with one half of the expenses charged to the Tribe and one-half charged to the other party or parties. The parties shall bear their own costs and attorneys' fees associated with their participation in the arbitration unless the decision of the arbitrator shall specify otherwise.

(e) Arbitration Decision. The decision of the majority of the arbitrator(s) shall be final, binding and unappealable. Failure to comply with judgement upon the award entered in such arbitration proceeding shall be deemed a breach of the Ordinance.

*Chapter VI**Auditing, Fiscal Oversight, and Internal Controls*

Section 6.01 Minimum Procedures for Control of Internal Fiscal Affairs. The Gaming Commission shall promulgate regulations for internal controls and fiscal audits of all gaming operations. At a minimum, those regulations shall:

- (a) Prescribe minimum procedures for safeguarding the gaming operation's assets and revenues, including recording of cash and evidences of indebtedness and mandatory count procedures. Such procedures shall establish a control environment, accounting system, and control procedures that safeguard the assets of the organization, assures that operating transactions are properly recorded, and encourage adherence to prescribed policies;
- (b) Prescribe minimum reporting requirements to the Gaming Commission;
- (c) Provide for the adoption and use of internal audits by Commission auditors and Certified Public Accountants licensed to practice accounting in the State of California.
- (d) Ensure that a uniform code of accounts and accounting classifications are formulated to assure consistency, comparability and effective disclosure of financial information. Such code shall require that records be retained that reflect statistical drop (amount of cash wagered by patrons), statistical win (amount of cash won by the gaming operation) and the percentage of statistical win to statistical drop, or provide similar information, for each type of game or each gaming device.
- (e) Prescribe the intervals at which such information shall be furnished;

- (f) Provide for the maintenance of documentation (i.e., checklists, transaction forms, programs, reports, etc) to evidence all internal work performed as it relates to the requirements of this section; and
- (g) Provide that all financial statements and documentation referred to in section (f) be maintained for minimum of five (5) years.

Section 6.02 Gaming Commission Oversight of Internal Fiscal Affairs. The Gaming

Commission shall, by regulation ensure the conduct of audits of the financial statements of all gaming operations at least annually. Such audits must:

- (a) be made by outside independent Certified Public Accountants holding a permit issued by the State of California to practice public accounting, such accountants shall be selected by and contracted with the Gaming Commission;
- (b) include an opinion that the financial statement fairly and accurately present the financial condition of the gaming operation in accordance with generally accepted accounting principals (GAAP) and in accordance with the Governmental standards of accounting and the gaming auditing standards established by the American Institute of Certified Public Accountants;
- (c) disclose whether the accounts, records and control procedures maintained by the gaming operation are as required by the regulations promulgated by the Gaming Commission; and
- (d) provide for preliminary review of the internal control structure upon adoption of the policies and procedures by the entity, provide an opinion regarding the adequacy of controls, to disclose any deviation from prescribed rules and regulations, and report such findings to the Gaming Commission and management.

Section 6.03 Gaming Commission's Right to Conduct Audit. The Gaming Commission shall be able to retain its own staff auditors and accountants, or contract an accountant(s), to conduct its own audits of any gaming operation.

Section 6.04 Prohibition Against Embezzlement. Any delay, maneuver or action of any kind which in the opinion of the Commissioner is effectuated by any licensee to unlawfully divert gaming or other proceeds properly belonging to the Tribe shall constitute grounds for taking sanctions against that licensee. If the Gaming Commission finds an unlawful diversion was conducted or attempted, it shall sanction the licensee. Sanctions may include fining, revoking, suspending, limiting or refusing to renew the license, or prosecution.

CHAPTER VII

AUTHORIZATION OF GAMING

Section 7.01 Prohibition Against Gaming. No person licensed by the Gaming Commission shall engage, conduct or condone any game unless such game is approved by the Gaming Commission and regulations for rules governing such game have been duly promulgated by the Gaming Commission and approved by Gaming Review Board.

Section 7.02 Grace Period. The prohibition contained in Section 7.01 shall not apply to those games already being played as of the date of enactment of this Code, provided however, that the licensee conform to the rules promulgated hereunder within five (5) days of such promulgation.

Section 7.03 Authorization of Gaming. The Gaming Commission may authorize the playing of any Class II game not prohibited by the laws of the State of California. The Gaming Commission shall promulgate regulations for rules governing all authorized games, including regulations governing the equipment (chips, dice, cards, tiles, devices, etc.) used in such game. Any provision in the Tribe's Compact with the State of California providing for testing, notice to, and comment from the State, shall be complied with before any game is authorized by the Gaming Commission. When there is reasonable cause to question the classification of a game (i.e. Class II or Class III) the Tribal Gaming Commission shall authorize such games to be conducted as Class II, unless or until the National Indian Gaming Commission rules otherwise or until a court of competent jurisdiction has ruled otherwise.

Section 7.04 Approval of Gaming Equipment. The Gaming Commission shall have the discretion to review and approve all gaming equipment and other devices used in the gaming operation as to quality, design, integrity, fairness, honesty, and suitability.

(a) The Gaming Commission may require a prototype or sample of any model of gaming equipment or other device used in the gaming operation to be placed in the custody of the Commissioner and retained as a control for comparison purposes.

(b) The Gaming Commission may contract with any outside independent Gaming Test Laboratory or other professional expertise it deems necessary or appropriate to ensure the integrity of gaming devices, equipment, supplies, etc.

(c) Any evidence that gaming equipment or other devices used in the gaming operation have been tampered with or altered in any way, which would affect the integrity, fairness, honesty or suitability of the equipment or device shall be immediately reported to the Gaming Commission.

Section 7.05 Posting of Rules. The Rules of each authorized game offered at any duly licensed establishment shall be posted in a conspicuous location and shall be clearly legible.

Section 7.06 Gaming Related Activity of the Tribe. The Tribal Gaming Commission shall have full jurisdiction for regulatory compliance and enforcement of any other gaming related activity that the Tribe may elect to conduct. The Gaming Commission shall promulgate such regulations as it deems necessary to ensure the integrity of such activity and to ensure compliance with all applicable Federal laws and regulations. Gaming Commission approval with regard to compliance with applicable gaming laws and regulations, shall be required for any contracts related to any such gaming related activities. For the purposes of this section, such gaming related activities shall include but not be limited to:

- (i) manufacture, development, assembly, sales, or distribution of any gaming machines, devices, equipment, software, or components thereof;
- (ii) joint ventures with other tribes, entities, persons, etc., related to gaming activity;

- (iii) management or service contracts with any other Tribes, entities, persons, etc., related to gaming activities.
- (iv) any financial loans, grants or other relationship with any Tribe, entity, person etc., related to gaming activity.

*Chapter VIII**Exclusion or Ejection of Individuals*

Section 8.01 List of Undesirables. The Gaming Commission may, by regulation, provide for the establishment of a list of persons who are to be excluded or ejected from any duly licensed gaming operation. The list may include any person whose presence in the gaming establishment is determined by the Gaming Commission to pose a threat to the interests of the Tribe, the gaming public, or to licensed gaming.

Section 8.02 Prohibition Against Listed Individuals. It shall be violation of this Code for any licensed employee to knowingly fail to exclude or eject from the gaming establishment any person(s) placed on the list referred to in Section 8.01. It shall be a violation of this Code for any person whose name appears on the list referred to in Section 8.01 to enter into or engage in any game at a duly licensed gaming establishment, and any such presence shall be considered trespassing.

Section 8.03 Prohibition Against Certain Individuals. It shall be a violation of this Code for any licensee who knowingly fails to exclude or eject from the gaming establishment any individual who is under the age of eighteen years and engaging in gaming activity.

*Chapter IX**Unlawful Acts*Section 9.01 It is Unlawful for any Person:

- (a) to alter or misrepresent the outcome of a game or other event on which wagers have been made after the outcome is determined but before it is revealed to the players;
- (b) to place, increase or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or knowledge of any event that affects the outcome of the game or knowledge that is the subject of the bet or wager;
- (c) to aid anyone in acquiring such knowledge as set forth in subparagraph (b), for the purpose of increasing or decreasing a bet or wager, or for the purpose of determining the course of play contingent upon that event or outcome;
- (d) to claim, collect or take, or attempt to claim, collect or take, money or anything of value in or from a gambling game with intent to defraud, without having made a wager contingent thereon, or to claim, collect or take an amount greater than the amount won;
- (e) knowingly to entice or induce another to go to any place where a gambling game is being conducted or operated in violation of the provisions of this chapter, with the intent that the other person play or participate in that gambling game;
- (f) to place or increase a bet or wager after acquiring knowledge of the outcome of the game or event which is the subject of the bet or wager, including past --posting and pressing bets;

- (g) to reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet or wager, including pinching bets; and
- (h) to manipulate with intent to cheat, any component of a gaming device in a manner contrary to the designed and normal operational purpose for the component, with knowledge or hope that the manipulation affects the outcome of the game or prize or with knowledge of any event that affects the outcome of the game or prize;
- (i) to solicit funds or anything of value from any patron or employee;
- (j) to unlawfully take or attempt to take any chips, coin(s), token(s) machine credits currency, or anything of value from any patron or employee on the premise;
- (k) to refuse to leave the gaming establishment when appropriately advised to do so by a member of management, security, or the Tribal Gaming Commission;
- (l) to damage or attempt to damage either intentionally or negligently any property, gaming device or equipment, or any article belonging to the Tribe, patron, employee, or Tribal corporation;
- (m) under the 18 years of age to make any wager either directly or indirectly in any Class II or Class III gaming activity;
- (o) to either intentionally or negligently cause injury or harm to any patron, or employee or threaten to do so;
- (p) to possess any chips, tokens, cards, device, paraphernalia, ect., that could reasonably be concluded as useful in cheating, defrauding, manipulating, or altering any game, gaming device equipment, machine, computer, or supplies;

(q) for any employee to aid, conspire, collude or assist in any way any other employee or patron to win or have any unfair advantage to win or otherwise acquire anything of value unfairly.

Section 9.02 Prohibition Against Electronic Aids. Except as specifically permitted by the Commissioner, no person shall possess with the intent to use, or actually use, at any table game, either by himself or in concert with others any calculator, computer or other electronic, electrical, or electromechanical device to assist in projecting an outcome at any table game, to keep track of or analyze the cards having been dealt, to change the probabilities of any table game or the playing strategies to be utilized.

Section 9.03 Violations and Sanctions. Any patron or employee who commits any violation of this Chapter shall be deemed to have committed a violation of this code. If the Commission should have reasonable cause to believe any such violation was committed, it may impose licensing sanctions, fines, prosecution and exclusion.

CHAPTER X

NATIONAL INDIAN GAMING COMMISSION

AND TRIBAL – STATE COMPACTS

Section 10.01 National Indian Gaming Commission – Regulations. Notwithstanding any provision in this Gaming Code or any regulations promulgated thereunder, the Tribal Gaming Commission is fully empowered to comply with all regulations promulgated by the National Indian Gaming Commission, (NIGC), including but not limited to, all requirements to report ordinances, contracts, license applications, background checks, and other information to the National Indian Gaming Commission. The Viejas Tribal Gaming Commissioner shall also serve as the designated agent as required under the National Indian Gaming Commission regulations.

Section 10.02 National Indian Gaming Commission – Assessment. Notwithstanding any provisions in the Gaming Code or any regulation promulgated thereunder, the Tribal Gaming Commission is fully empowered to ensure compliance with all assessments authorized by the National Indian Gaming Commission. Such assessments shall be directed to be paid by the Gaming operation.

Section 10.03 Compact with the State of California. Notwithstanding any provision in this Gaming Code or any regulation promulgated thereunder, the Gaming Commission is fully empowered to comply with the provisions of any compact between the Tribe and the State of California.

CHAPTER XI

MISCELLANEOUS

Section 11.01 Security. Each licensed gaming establishment must provide for reasonable security. All security personnel must be licensed by the Gaming Commission.

Section 11.02 Surveillance. The Gaming facility shall provide all surveillance equipment, supplies, and space as deemed necessary by the Tribal Gaming Commission for the reasonable protection of patrons, employees, and Tribal assets. All surveillance systems, equipment, rooms, ect., shall be under the control and jurisdiction of the Tribal Gaming Commission. All surveillance staff shall be employees of and report only to the Tribal Gaming Commission.

Section 11.03 Maintenance of Code and Regulations. Each licensee shall obtain, maintain and keep current a copy of the Gaming Code and regulations promulgated thereunder, which shall be located at the premises used for the conduct of any licensed gaming activity. The Code and regulations shall be produced by the licensee and shown to any authorized person upon demand. That a licensee may not have a current copy of the Code, or each of the regulations of the Gaming Commission, shall not in way diminish the licensee's obligation to abide by the Code and regulations.

Section 11.04 Compliance with Other Laws. The construction, maintenance and operation of any facility in which gaming and related activities are to take place shall be in a manner which adequately protects the environment and the public health and safety and shall comply with any otherwise applicable Tribal and Federal laws relating to environmental protection and public health

and safety.

Section 11.05 Amendments. All provisions of this Gaming code are subject to amendment by the Viejas Tribal Council. All regulations promulgated by the Gaming Commission are subject to proper revision, repeal or amendment by the Gaming Commission and Review Board.

Section 11.06 Severability. If any provision of this Code, or its application to any purpose or circumstance, is held invalid by a court of competent jurisdiction, the full remainder of the provision, or the application of the provision through another person or circumstances, shall not be affected. If any provision of this Code is determined to be in conflict with any Federal or State Gaming laws or regulations, or future Tribal – State Compact, the applicable Federal or State laws and regulations or compact provisions shall prevail as applicable to that conflicting provision of this Code only. The remainder of this Code shall remain valid and in effect.

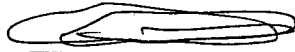
Section 11.07 Designated Agent. The designated agent for notice of any official determination, order, or notice of violation by the NIGC as required by 25 C.F.R. §519.1 is the Commissioner of the Tribal Gaming Commission;

Section 11.08 Law Enforcement. The designated law enforcement agency as required by IGRA is the San Diego County Sheriff Department. The procedures set forth in Section 2.09 above describe the steps taken for a complete investigation. Criminal history checks shall be processed both on a State and Federal level.

Section 11.09 Effective Date and Supercedure. This Tribal Gaming Ordinance shall take effect when signed by the Tribal Chairman and upon receipt of approval of the Chairman of the National Indian Gaming Commission. Upon receipt of approval of the Chairman of the NIGC, this Tribal Gaming Ordinance shall supercede and replace any and all other Tribal Gaming Codes, Ordinances, laws or resolutions previously adopted or enacted by the Council or Chairman of the Viejas Band of Kumeyaay Indians.

END OF THE TRIBAL GAMING CODE OF THE VIEJAS BAND OF KUMEYAAY INDIANS

DULY ADOPTED THIS 31 DAY OF JULY 1998

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a horizontal line.

Tribal Chairman

VIEJAS INDIAN RESERVATION

ANTHONY R. PICO, CHAIRMAN
 KIM M. BACTAD, VICE CHAIRMAN
 PAULETTE A. LEWIS, SECRETARY
 ANITA R. UQUALLA, TREASURER
 VIRGINIA M. CHRISTMAN, COUNCILWOMAN
 SANDRA A. BARRETT, COUNCILWOMAN
 CLARENCE R. BROWN, JR., COUNCILMAN



P.O. BOX 908
 ALPINE, CA 91903
 Phone: (619) 445-3810
 Fax: (619) 445-3337

**RESOLUTION AUTHORIZING TRIBAL COUNCIL
 CHAIRMAN TO SIGN APPROVAL OF NEW VIEJAS
 TRIBAL GAMING ORDINANCE**
 Resolution No. 073198

WHEREAS, the Viejas Band of Kumeyaay Indians is a Federally recognized sovereign Tribe (The Tribe) and as such is authorized to exercise its Sovereignty by enacting its own laws governing its own affairs on the Viejas Reservation, and

WHEREAS, the Tribe wishes to engage in Class II and Class III gaming activity on its reservation lands as authorized by 25 U.S.C. § 2702 (The Indian Gaming Regulatory Act), and

WHEREAS, pursuant to the Act and 25 CFR part 522, the Tribe must enact a Tribal Gaming Ordinance authorizing such desired gaming activity and after such enactment, the Tribe shall additionally be required to submit any such Ordinance to, and receive approval from, the Chairman of the National Indian Gaming Commission (NIGC),

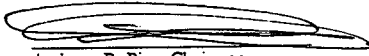
NOW THEREFORE BE IT RESOLVED, that the Tribal Council of the Viejas Band of Kumeyaay Indians hereby approves and enacts the attached Tribal Gaming Ordinance,

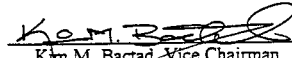
BE IT FURTHER RESOLVED, that the Tribal Council designates the Chairman of the Viejas Band, or in his absence the Vice Chairman, as authorized to affix his signature on the Ordinance signifying approval,

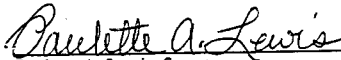
BE IT FURTHER RESOLVED, that upon Tribal Governmental approval of the Ordinance, the Viejas Tribal Gaming Commissioner is directed to engage in all additional necessary communications with the National Indian Gaming Commission (NIGC) to secure the required approval of the Chairman of the NIGC.

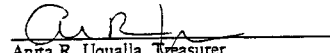
Resolution passed this 31 day of July 1998, at a duly noticed meeting of the Viejas Tribal Council by vote of 6 for, 0 against, and 0 abstaining.

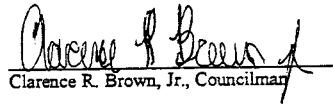
Resolution No. 073198 Authorizing Gaming Ordinance
Page Two


Anthony R. Pico, Chairman

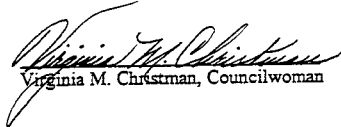

Kim M. Bactad, Vice Chairman


Paulette A. Lewis, Secretary


Anita R. Uqualla, Treasurer


Clarence R. Brown, Jr., Councilman

ABSENT
Sandra A. Barrett, Councilwoman


Virginia M. Christman, Councilwoman

Tribal Gaming Regulations
of the
Viejas Band of Kumeyaay Indians

Adopted on
September 3, 1998

Amended on
March 21, 2000

ADMEENDMENTS

<u>DATE</u>	<u>SECTION</u>	<u>SUMMARY</u>
July 16, 1999.....	Section XVII GCR001	Added new paragraph 3 regarding lab test and certification of gaming equipment.
July 16, 1999.....	Section XXIII..... GCR001	Added new section on Employee Personal Financial Transactions
July 16, 1999	Section XXIV..... GCR001	Added new section on Disposal of Tribal assets.
July 16, 1999	Section XXV GCR001	Added new section on Tampering with Surveillance equipment.
July 16, 1999	Sections XXVI and XXVII GCR001	Renumbered Amendments and Severability respectively.
July 16, 1999	Section XVII GCR003	Added words to clarify vendor licensing requirements.
July 16, 1999	Section XXII (Page 15) GCR003	Replaced old paragraph 7 with new paragraph 7 clarifying due process on license suspensions.
July 16, 1999	Section XI 8 a and b..... (Page 15) GCR003	Added several words for clarification of due process in license suspensions, denials, or revocations.
January 13, 2000.....	GCR009.....	Added new Regulation for conflict of interest, Conduct and ethics code.
January 13, 2000.....	GCR010	Added new Regulation for licensing Labor Organizations (Union).
March 21, 2000.....	GCR011.....	Added new Regulations for Technical Specifications for Gaming Devices.
April 25, 2000	GCR005	Complete rewrite of this Regulation.
April 25, 2000	GCR001	Revised Section XIV on Contracts.
April 25, 2000	GCR008	Revised Paragraph 5 page 4 adding cardroom and slot personnel, deleted "when reasonably necessary".
April 25, 2000	GCR011	Revised Section X 3 to be consistent with GCR005.
July 6, 2000	GCR001	Revised Section VIII to allow employees to gamble.
July 6, 2000	GCR012	Added New- Tech Specs for Cards, Dice, Chips And Tokens

<u>DATE</u>	<u>SECTION</u>	<u>SUMMARY</u>
October 10, 2000 ...	Section VI (6) GCR005	Jackpot Verification: reduced jackpot limit from \$100,000.00 to \$25,000.00 requiring notification of Gaming Commission Inspector.
December 11, 2000	Section VIII..... GCR005	Language which will be consistent with the MICS and Policies and Procedures.

VIEJAS TRIBAL GAMING COMMISSION REGULATIONS

SUBJECT: GENERAL REGULATIONS

I. PURPOSE

Pursuant to Section 3.10 of the Tribal Gaming Ordinance (Powers of the Tribal Gaming Office) which states in part "The Gaming Office shall promulgate rules and regulations for the operation of any gaming establishment..." This manual is established to set forth reasonable and progressive Tribal Gaming Regulations as deemed necessary and appropriate by the Tribal Gaming Commission.

II. GENERAL POLICY

This manual shall be entitled "Gaming Commission Regulations". Each Regulation shall be sequentially numbered starting with "001" and preceded with the prefix "GCR". The first Policy/Regulation (GCR001) in this manual shall set forth numerous miscellaneous general regulations. Subsequent Regulations shall be those which require lengthy detailed procedural descriptions.

III. LICENSING

1. All procedural details and regulatory requirements dealing with Tribal gaming licenses, applications, background investigations, suitability determinations denials, suspensions, and revocations are set forth in GCR003. Any person whose gaming license is denied or revoked shall not be eligible to reapply for a gaming license for a period of 18 months from the date of the final ruling on the denial or revocation.
2. In any case where California Gaming Regulatory Officials deny eligibility , the Tribal Gaming Commission may consider exceptions to the 18 month rule for reapplying to be consistent with any State limitations on when an applicant can reapply.
3. Gaming licenses shall serve as the only acceptable identification badge to be worn by all employees. Every employee shall at all times while on duty wear the license plainly visible and at approximately chest height. The face of the license shall not be obscured by stickers, buttons, pins, or by any other means. No employee shall allow any person other than themselves to have possession of their I.D. badge and/or key card. No employee shall use, wear or possess another employee's I.D. badge and/or key card.

IV. LOANS TO GAMING OPERATION

1. Whenever the Gaming Operation applies for, or receives, accepts, or makes use of any cash, property, guarantee, or other form of security loaned to, or provided for, or on behalf of the Gaming Operation, it shall notify the Tribal Gaming Office within thirty (30) days of such transaction. Such notice shall be in the form requested by the Tribal Gaming Office, and shall include the names and addresses of all parties to the transaction, the amount and source of the funds or property, the nature and amount of security provided by or on behalf of the Gaming Operation, the purpose of the transaction, and such other information as the Tribal Gaming Office may require. The report shall be accompanied or supplemented by copies of documents, and such other supporting data as the Tribal Gaming Office may require. If, after such investigation as the Tribal Gaming Office deems appropriate, the Tribal transaction is inimical to the health, safety, morals, good order and general welfare of the Tribe, or would reflect, or tend to reflect, discredit upon the Tribe, the Tribal Gaming Office shall order the transaction rescinded within such time and upon such terms and conditions as it may deem appropriate.

V. HOURS OF OPERATION

1. The Hours of Operation of the gaming facility shall be at the discretion of the Tribal Council, up to twenty four (24) hours a day, seven (7) days a week. However for Class III Gaming activity, any Compact limitations shall prevail.
2. The hours of sale and service of any alcoholic beverages shall be in full compliance with any and all applicable California State Liquor Laws.

VI. METHODS OF OPERATION

1. It is the policy of the Tribal Gaming Office to require that the Gaming Operation, and all enterprises licensed or found suitable in connection therewith, are conducted in a manner that protects the public health, safety, morals, good order, and general welfare of the Tribe.
2. Responsibility for the employment and maintenance of suitable methods of operation rests with the licensee and the Gaming Operation. Any willful or persistent use or toleration of methods of operation deemed unsuitable will constitute grounds for license revocation or other disciplinary action. In addition, the following minimum standards are hereby imposed on the Gaming Operation:

- a) To ensure compliance with all relevant laws, regulations, and internal controls;
- b) To ensure the physical safety of patrons in, and of personnel employed by, the establishment;
- c) To safeguard the assets transported to and from the gaming facility and any cashier's cage department;
- d) To protect patrons and property from illegal activity;
- e) To detain persons suspected of crimes for the purpose of notifying the law enforcement authorities;
- f) To record any and all unusual occurrences within the gaming facility as follows:
 - 1. the assigned sequential number of the incident;
 - 2. the date;
 - 3. the time;
 - 4. the nature of the incident
 - 5. the person is involved in the incident; and
 - 6. the security employee assigned;
- g) To maintain applicable logs relating to security, cashier's cage, gaming machines (showing when machines are opened) and machine location;
- h) To maintain a cashier's cage in accord with industry standards for security and transaction accountability;
- i) To employ and train sufficient security personnel.

VII. GROUNDS FOR DISCIPLINARY ACTION

Should the Tribal Gaming Office deem that any activity on the part of Gaming Operation, or any licensee, or his or her agents or employees, is inimical to the public health, safety, morals, good order and general welfare of the Tribe, or would reflect or tend to reflect discredit upon the Tribe or the Gaming Operation, such activity shall be considered an unsuitable method of operation and shall be grounds for disciplinary action by the Tribal Gaming Office in accordance with the Ordinance and the regulations of the Tribal Gaming Office. Casino Management may first be given an opportunity to take corrective action. Without limiting the generality of the foregoing, the following acts or omissions may be determined to be unsuitable methods of operations:

- A. Failure to exercise discretion and sound judgment to prevent an incident which might adversely reflect on the Tribe or the Casino.
- B. Permitting persons who are obviously intoxicated to participate in gaming activity.

- C. Complimentary service of alcoholic beverages in the casino or any service of alcoholic beverages to persons who are intoxicated.
- D. Knowingly catering to, assisting, employing or associating with, either socially or in business affairs, persons of notorious or unsavory repute or who have extensive criminal records, or persons who have defied congressional investigative committees or other officially constituted bodies acting on behalf of the United States, or any State, or persons who are associated with or support subversive movements; the employing either directly or indirectly or through a contract, or any other means, of any firm or individual in any capacity where the repute of the Tribe or the Gaming Operation is liable to be damaged because of the unsuitability of the firm or individual or because of the unethical methods of operation of the firm or individual.
- E. Employing in a position for which the individual could be required to be licensed as a key employee, any person who has been denied a gaming license or who has failed or refused to apply for licensing when so requested by the Tribal Gaming Office.
- F. Employing in the Gaming Operation or the business of a licensee any person whom the Tribe or any court has found guilty of cheating or using any improper device in connection with any game, whether as a licensee, dealer, or player at a licensed game or device; as well as any person whose conduct of a licensed game as a dealer or other employee of a licensee resulted in revocation or suspension of the license of such licensee;
- G. Failure to comply with, or make provision for compliance with all applicable Federal, State, and Tribal laws and regulations pertaining to the operations of the Gaming Facility or a licensee.
- H. Possessing or permitting to remain in or upon the premises of the gaming facility any chips, dice, mechanical, or electrical device, or any other cheating device whatever, the use of which is prohibited by statute or Ordinance; or conducting, carrying on, operating or dealing any cheating or thieving game or device on the premises of the Gaming Facility, either knowingly or unknowingly, in any manner which tends to deceive the public or which might make a game or a player more liable to win or lose, or which tends to alter the normal random selection of criteria which determine the results of the game.
- I. Denying any agent of the Tribal Gaming Office or any State, or Federal gaming agency, upon proper and lawful demand, access to, inspection or disclosure of any information concerning any aspect of the Gaming Facility as authorized by any Compact, Tribal Gaming Ordinance, or Federal Regulations.

- J. For any licensed employee including any member of management to abuse comp privileges. Such abuses may include but are not limited to authorizing themselves, other employees, friends or family members to receive free, complimentary or deeply discounted meals, alcoholic beverages, gifts, merchandise, hotel rooms, R.V. space, cash, coupons or anything else of value charged to or belonging to the casino or the Tribe.
- K. For any employee without Commission approval to take, acquire, receive, give away, or divert anything of value charged to or belonging to the casino. This shall include but not be limited to food, beverage, supplies, furnishings, labor, merchandise, equipment, revenues or anything that could be construed as a Tribal asset. Such activity shall be considered theft or misappropriation of Tribal assets.

VIII. GAMING BY EMPLOYEES

As a matter of Tribal policy the Tribal Council has elected to allow most casino employees to gamble at Viejas under very specific guidelines and restrictions. For detailed rules please refer to Viejas Casino & Turf Club Policy and Procedure No. 120.02.05. Employees and immediate families shall not be eligible to play any slot progressive games or partake in any promotions or players club activities

IX. PATRON DISPUTES

- 1. Pursuant to Section 3.28 of the Ordinance, patron disputes over payment of alleged winnings shall be processed as follows:
 - a) If the dispute involves \$500.00 or less, Gaming Facility management may attempt to negotiate or settle the dispute. However, if after the settlement negotiations the patron is still dissatisfied, casino management is required to advise the patron that if he or she wishes to contest the decision, the patron has the right to have the Tribal Gaming Office (Inspector) conduct an investigation.
 - b) If the dispute involves \$501.00 or more, casino management must immediately notify a Tribal Gaming Representative (Inspector). The inspector shall initiate a report for a record of the dispute. The Casino manager will consult with the inspector regarding the circumstances of the dispute. The Casino manager shall decide at the time how to resolve the dispute. If the decision does not satisfy the patron, or if the inspector disagrees with the decision, the inspector shall inform the patron of appeal rights and procedure. The inspector will then conduct an investigation to the extent deemed necessary or appropriate by the inspector. The investigative activities and results will be noted in the incident report.

2. If an inspector is called upon to conduct an investigation of a patron dispute, the inspector shall:
 - a) Fully identify the patron
 - b) Check video tapes (if available)
 - c) Identify and interview witnesses (if available)
 - d) With the assistance of a machine technician, obtain all available recorded information on machine meters and readings.
 - e) Record all investigative efforts, opinions, observations, etc. on an incident report form.
 - f) When possible, attempt a compromise between patron and management. If practical to do so and no agreement is reached at the time, the inspector shall seize and hold disputed winnings. If it is not practical to seize disputed winnings the inspector shall allow payment as the manager deems appropriate. If payment is made to someone other than the disputing patron, proceed with (g) below.
 - g) Give the disputing patron a Tribal Gaming Commission business card and advise that they will be informed of the results of the investigation by the Tribal Gaming Office.
 - h) Forward the report and any supporting evidence to the Commissioner in a timely manner.
3. Upon completion of the investigation, the Tribal Gaming Office shall make written notification to the patron and Casino General Manager of the Office's ruling and of the right to appeal to the Gaming Review Board in accordance with the Ordinance.
4. The ruling of the Gaming Review Board shall be final and binding upon both the patron and the Gaming Facility Operator and not subject to further appeal.

X. BARRED/EXCLUDED PERSONS

Pursuant to the Tribal Gaming Ordinance, the Tribal Gaming Office is required to establish a list of persons excluded from the gaming facility. The detailed process required in enforcing this regulation is set forth in GCR004.

XI. SURVEILLANCE

1. The Gaming facility shall provide all surveillance equipment, supplies, and space as deemed necessary by the Tribal Gaming Commission for the reasonable protection of patrons, employees, and Tribal assets. All surveillance systems, equipment, rooms, etc., shall be under the control and jurisdiction of the Tribal Gaming Commission. All surveillance staff shall be employees of and report only to the Tribal Gaming Commission.
2. The gaming facility management will provide any and all desired plans for equipment installation, removal, modification, of facility layout changes to the Tribal Gaming Office for review and approval, prior to any change.
3. The gaming facility management shall comply with any additional requirements deemed necessary or appropriate by the Tribal Gaming Commission with regard to equipment, coverage or layout, in order to adequately protect the security assets, and security and safety of patrons and employees.

XII. INTERNAL CONTROLS

1. The facility operator in accordance with Section 6.01 of the Ordinance shall promulgate internal controls for the operation of the casino which reasonably assure that:
 - a) Assets are safeguarded.
 - b) Financial records are accurate and reliable.
 - c) Transactions are performed in accordance with the Tribe's general or specific authorization.
 - d) Access to assets is permitted only in accordance with the Tribe's specific authorization.
 - e) Recorded accountability for assets is compared with actual assets at frequent intervals and appropriate action is taken with respect to any discrepancies.
 - f) Functions, duties, and responsibilities are appropriately segregated and performed in accordance with sound practices by competent, qualified personnel.
2. These internal controls shall be subject to the constant review and approval of the Tribal Gaming Office.

XIII. CASINO DEPARTMENTAL PROCEDURES

1. The Gaming Facility management shall adopt procedures that provide for all, but not limited to, the following:
 - a) The physical safety of its employees.
 - b) The physical safety of patrons in the facility.
 - c) The physical safeguarding of assets transported to and from the facility and the cashier's cage department.
 - d) The protection of the patrons', employees', and the Gaming Operation's property from illegal activity.
 - e) The responsibilities and functions of every employee in each department.
2. Such procedures shall be subject to review, recommendation, and approval of the Tribal Gaming Office.

XIV. CONTRACTS

Any initial contracts with the gaming operation for equipment, supplies, consultation or services for \$25,000.00 or more in any 12 months period shall require review of the Tribal Gaming Commission to determine licensing requirements. Once a vendor is licensed by the Tribal Gaming Commission further submission of contracts with that vendor shall not be required.

XV. REPORTING REQUIREMENTS

1. To allow the Tribal Gaming Commission to appropriately monitor the security, financial and licensing requirements of the gaming facility, certain regular reports and documentation are required from the facility. In addition, the Tribal Gaming Office is required to make reports to the Tribal Council, and the NIGC.
2. The gaming facility shall be required to provide any reports, documentation, or information that the Tribal Gaming Office deems appropriate or necessary.
3. At a minimum, the following reports and documentation shall be submitted to the Tribal Gaming Office on a monthly basis, no later than the 15th of the month following the month to be reported:

- a) Monthly financial report (content of which is to be determined by the Tribal Gaming Office).
 - b) Monthly exception/variance report (by department).
 - c) List of all patron Jackpots requiring W2-G Tax forms and 1099's.
 - d) Summary report of all security department incident reports.
 - e) Any Title 31 records specified by the Commissioner.
 - f) A Vendor disbursement list.
 - g) An active list of all employees, their departments, and titles.
 - h) A list of all personnel terminations and reasons specified for each termination.
4. Prior to the transfer or promotion of any employee, the Gaming Office shall be notified to ensure appropriate background and licensing.

XVI. AUDIT REQUIREMENTS

1. Pursuant to Chapter VI of the Tribal Gaming Ordinance, the Tribal Gaming Office bears overall responsibility for monitoring the fiscal affairs of the gaming facility.
2. The Tribal Gaming Office shall accomplish this task by whatever means it deems necessary or appropriate, including but not limited to the following:
 - a) Requiring the gaming facility to establish adequate written internal controls and procedures for financial accountability and security of assets. These controls shall be subject to continual review and approval by the Tribal Gaming Office.
 - b) Random monitoring of employee actions for compliance with the internal controls and procedures.
 - c) Obtaining and reviewing monthly financial reports and exception/variance reports.
 - d) Selecting a qualified independent outside auditing firm to conduct an annual audit of the operation (These audit results are required to be forwarded to the NIGC).

- e) Hiring consultants or auditors to review procedures, controls, or actual actual performance and processes at any time deemed appropriate.
 - f) Conducting investigations into any reported or suspected irregularities or improprieties.
3. In addition to the Tribal Gaming Office audit activities set forth above, the gaming facility is encouraged to conduct its own internal compliance reviews on a continual basis.
 4. In accordance with Section 6.01 (g) of the Tribal Gaming Ordinance, all documentation related to fiscal accountability (i.e. checklists, records, and transaction slips, programs, reports, etc.) are required to be maintained for a period of 5 years.

XVII. TESTING/AUDITING OF GAMING MACHINES AND EQUIPMENT

1. Any qualified employee of the Tribal Gaming Office, or their designee, may at any time conduct tests on the computer chips of any machine to ensure compliance with any State, Tribal, or independent laboratory software requirements for approved games/ machines.
2. Any qualified employee or designee of the Tribal Gaming Office may inspect and audit the internal and external hardware and records of any gaming device at any time to ensure compliance with any Tribal, State, or Federal Regulations.
3. The Tribal Gaming Commission may require the laboratory or field testing and certification of any gaming equipment, either Class II or Class III, by an independent testing laboratory. This testing requirement could occur prior to, during installation, or after purchase or use of any gaming devices or equipment. Should the Commission deem it necessary or appropriate to require any such independent lab testing or certification, the entire cost of testing shall be the responsibility of the manufacturer or distributor of the gaming devices or equipment. Compliance with this Regulation shall be a condition of continued licensing.
4. Additional detailed requirements for the control of gaming machines and equipment are set forth in GCR005.

XVIII. DETENTION OF PERSONS COMMITTING CRIMINAL ACTS

1. "Tribal Ordinances and applicable Federal laws prohibit cheating , defrauding or attempting to cheat or defraud...(etc)" in any game or transaction, or anyone who violates any provisions of Chapter IX of the Tribal Gaming Ordinance shall be deemed to have committed a criminal act.

2. Gaming facility management, security personnel, or Tribal Gaming Office representatives have the authority and responsibility to detain any person (s) who violates the cheating prohibitions mentioned above, or any person(s) who is reasonably believed to have violated any applicable criminal law of the Tribe, State, or Federal Government.
3. Such detention shall be based on probable cause to believe that a crime has occurred and that the person(s) detained committed the crime, and shall be for the following purposes:
 - a) To identify the violator.
 - b) To complete or continue a criminal investigation.
 - c) To turn over the person to appropriate criminal law enforcement authorities as soon as possible.
4. The detention of persons as described above shall be primarily the responsibility of Security and Commission personnel and should only be done by other authorized personnel as when absolutely necessary. Any detentions shall be performed in a secure and isolated physical location which has audio and video recorded surveillance coverage at all times.
5. In addition to applicable criminal laws, violators may also be subject to civil fines imposed by the Tribal Gaming Office, up to \$5,000.00 for each offense.

XIX. FAILURE TO RESPOND OR COMPLY

1. It shall be a violation of this regulation for the Gaming Facility Operator, any member of the gaming facility management, any employee of the gaming facility, or any applicant for a gaming license, to fail to respond or comply with any lawful or regulatory written request, recommendation, or demand of the Tribal Gaming Office within 14 days of receipt of such request, recommendation, or demand.
2. Any violation of this regulation shall be subject to the sanctions and enforcement set forth in Section XX of GCR001 of the Tribal Gaming Office Regulations.

XX. SANCTIONS, ENFORCEMENT, DUE PROCESS

1. The Tribal Gaming Ordinance specifically provides that all provisions of the National Indian Gaming Commission Regulations, any California State Compact, and Tribal Gaming Commission Regulations are applicable to the gaming facility and operation, its employees, and (as applicable) patrons, suppliers, vendors, etc. Therefore, any person(s) who violates any provision of the NIGC Regulations,

2. the Compact, the Tribal Gaming Ordinance, or these Tribal Gaming Commission Regulations shall be deemed to have violated the Tribal Gaming Ordinance. In addition to possible civil penalties of up to \$5,000.00 per violation and license denials, suspensions and revocations, violators may also be subject to criminal prosecution in courts of competent jurisdiction.
3. The denial, suspension and revocation of any license for regulatory violations shall be processed in accordance with Section GCR003 of this regulatory manual.
4. Any civil fines imposed by the Tribal Gaming Commission shall require:
 - a) That the violators be given written notice of intent to fine twenty (20) days prior to the date that the fine is to be imposed.
 - b) Such written notice shall be by certified, return receipt requested mail or personally served, and shall specify a time, date, and place for a hearing on the matter by the Commissioner.
 - c) The results of the hearing shall be conveyed to the violator within six (6) days of conclusion of the hearing by certified, return receipt requested mail, or personally served.
 - d) The results of the hearing notification shall also include notice of the person's right to appeal the decision to the Gaming Review Board and that the person must submit written notification of desire to appeal to the Board within 10 days of receipt of notification of results of the Commissioner's ruling, and that the decision of the Board shall be final and binding. (Note: The imposition of fines is an enforcement tool which should be used sparingly. Other than violations serious enough to warrant summary licensing action, fines should be used only after other progressive corrective action measures have failed).
5. Any criminal charges shall be pursued by the Commissioner with appropriate law enforcement authorities. The Commissioner shall be the primary witness for the Tribe and shall assist the law enforcement authorities by providing all supporting documentation and evidence and names of additional witnesses required for prosecution.

XXI. RIGHT OF INSPECTION

1. Pursuant to Section 3.21 of the Tribal Gaming Ordinance, members of the Tribal Gaming Office, their agents, and inspectors shall have the right to inspect any portion of the gaming facility as well as any gaming records, reports, documents, supplies, or equipment at any time.

2. Such inspection shall be unhindered, unrestricted, immediate, and unfettered. Such inspection, at the discretion of the Commission agent, may and should occasionally be unannounced.
3. The only way such unfettered and unannounced inspections can be accomplished is by means of immediate and unrestricted access to any area of the gaming facility. Such accessibility shall be affected by means of a master key to the facility which shall be in the possession of the Tribal Gaming Office. The Gaming Commissioner and designated Commission employees shall be provided with access cards coded in such a manner as to allow immediate access to any and every area of the facility.
4. It shall be the policy of the Tribal Gaming Commission that any employee of the Commission wishing to access the vault, soft count, or hard count rooms, shall not do so alone. Access to these areas shall require accompaniment by a second person, preferably a Security Officer or member of management.

XXII. GIFTS

It shall be a violation of these regulations for any person holding a Tribal Gaming license or their immediate family members to receive any gift, incentive, personal compensation, reimbursement, reward, or payment of any kind, or anything of a value of over \$20.00 from any person or entity doing or wishing to do business with the Gaming Operation, or from any person wishing to gain any advantage in any authorized wager or gaming. Such conduct shall be considered the equivalent of accepting a bribe. Any property or cash received in violation of this regulation shall be immediately forfeited to the Tribal Gaming Office. Any person violating this Section shall be subject to licensing sanctions and/or fines pursuant to Section 3.26 of the Tribal Gaming Ordinance.

XXIII. EMPLOYEE PERSONAL FINANCIAL TRANSACTIONS

It shall be a violation of this Regulation for any employee to give to, receive from, convey, borrow or loan any cash or cash equivalent to/from other employees or patrons either directly or indirectly through a third party while on duty and on the premises. This does not include the receiving of tips or tokens by those employees authorized to do so.

XXIV. DISPOSAL OF TRIBAL ASSETS

The disposal of Tribal casino assets shall require review and approval of both the casino general manager and the Commissioner. Any request for disposal shall include a description of the asset, its Tribal asset number (if applicable), serial number (if applicable), name of requester, and justification for the disposal, i.e. obsolete, un-repairable, etc. Typical disposal methods may include trade in on new, auction, destruction, given to bonafide charity with receipt, etc. In no case shall any employee be entitled to take personal possession of a casino asset determined to be obsolete, damaged or otherwise designated as useless without written authorization from the general manager and Commissioner.

XXV. TAMPERING WITH SURVEILLANCE EQUIPEMENT

It shall be a violation of these Regulations for anyone, employee or otherwise, to touch, obscure, move, remove, manipulate, damage, cover or otherwise tamper with any surveillance cameras. It shall likewise be a violation to knowingly or negligently remove, damage, modify, or otherwise tamper with any other surveillance related equipment without express authorization from a Gaming Commission representative.

XXVI. AMENDMENTS

These Gaming Regulations may be amended by a vote of majority of the Tribal Gaming Review Board and will automatically be amended to include all present and future Tribal Gaming Ordinance changes, rules, and regulation of the National Indian Gaming Commission and all rules and regulations which may be required in a Compact between the Tribe and the State of California, or any rules and regulations agreed to in the future between the Tribe and the State of California in any amended Compact between the Tribe and the State.

XXVII. SEVERABILITY

In the event that any of these rules and regulations are inconsistent with either the existing Tribal Gaming Ordinance or any changes to that Ordinance in the future, or with the rules and regulations of the National Indian Gaming Commission and/or the requirements of any Compact between the Tribe and the State of California then, in that event, the rules of the National Indian Gaming Commission, the Compact, or the Tribal Gaming Ordinance shall supersede that of the Gaming Commission Regulation which is inconsistent. All other regulations of this manual shall remain in effect.

VIEJAS GAMING COMMISSION REGULATION
SUBJECT: INCIDENT REPORT

I. PURPOSE

The purpose of this regulation is to provide a uniform and standardized method of formatting, writing, investigating, routing and filing incident reports.

II. POLICY

1. In accordance with the Ordinance, any and all unusual occurrences and all violations or suspected violations within the gaming operation are to be recorded, investigated and filed. There are two recognized investigative authorities at the Viejas Casino and Turf Club: the Security Department and the Tribal Gaming Commission. Each entity shall have distinctively different reporting and investigative responsibilities.
2. The Tribal Gaming Commission personnel shall have sole authority and responsibility to conduct investigations and file reports related to the following activity.
 - a) Patron disputes with the Gaming Operation.
 - b) Internal controls violations.
 - c) Any real or suspected criminal activity including but not limited to theft, fraud, counterfeit, assault, cheating, property damage, etc., whether by patron or employee.
 - d) Any civil violations of any applicable Federal, State, or Tribal gaming regulations or laws.
3. The Security Department shall have responsibility for properly investigating and recording incidents which involve the activities listed below. Copies of all Security Department reports shall be forwarded to the Tribal Gaming Commission for informational review.
 - a) Disorderly conduct and/or exclusions of patrons for conduct.
 - b) Accident or injury reports on all patrons or employees.
 - c) Accidental property damage reports.
 - d) Safety, health or security hazards
 - e) Lost and Found.

4. Employee misconduct or violation of Human Resources Policies and Procedures, shall be immediately forwarded to the Legal Department for determination of necessary investigations.

III. PROCEDURE

1. A 3-ring binder containing original copies of Incident Reports shall be maintained in both the Inspector's office and the Security office.
2. There shall be a bound notebook which will serve as the Incident Report Log Book, hereafter referred to as the "I.R. Log." From this log sequential incident report identification numbers shall be assigned to each report. Under no circumstances shall pages be removed from the I.R. Log Book. For detailed instruction on filling out the log, see Section IV-Forms. Mistakes in the Log Book shall be corrected by a single line through the entry and the investigator's initials next to the line, followed by the new entry. (No whiteout or blackout is to be used). Gaming Commission inspectors and the security department shall each maintain their own respective log books.
3. Upon completion of an Incident Report the Commission or Security investigator shall place one copy with any statements or other documentary evidence attached in the Incident Report Book in their respective offices. In addition, the investigator will provide one copy of the report and any related documentation to the Commissioner.
4. The Commissioner will at his/her discretion forward copies of Commission Incident Reports to the Security Department. This should enhance interdepartmental awareness and communication of significant security and safety issues.
5. If follow-up investigation, corrective action, or customer contact is required, the Commissioner or designee shall assign the incident report to an investigator to conclude and dispose of the incident.
6. Upon final disposition of the incident, it shall be the responsibility of the investigator disposing of the incident to ensure that an updated copy of the report, with corrective action responses if applicable, is in the Incident Report files in the Tribal Gaming Office.
7. Complete and valid identification of subjects is essential for any follow up action, especially current valid addresses. When possible, photocopy I.D. and photograph the subject.
8. Whenever possible attempt to obtain written statements from subjects and witnesses including involved Casino personnel.

IV. FORMS

1. Attachment "A" (not an official form), is a sample of a page in the I.R. Log Book. It shall be filled out with respect to the numbered sections as follows:
 - a) Item #1- Date of the incident.
 - b) Item #2- Time of the incident.
 - c) Item #3- Unique Incident Report number as assigned to each individual report. It shall consist of a 3 digit sequential number starting with 001 and having a prefix of the year and suffix of "GC" for Commission reports and "SD" for Security Department reports, i.e. 98-001-GC.
 - d) Item #4- Name and employee number of the investigator writing the report.
 - e) Item #5- Name of the victim or principal.
 - f) Item #6- Brief description of the nature of the report. For example, short pay, patron dispute, panhandler, internal control violation, disorderly conduct, theft, etc..
2. Attachment "B" is the face sheet or primary sheet of the Incident Report Form. It will be filled out as follows with respect to the numbered sections on the attachment:
 - a) Item #1- Unique incident report number in accordance with Part IV- Forms (1) of this section.
 - b) Item #2- Date of incident
 - c) Item #3- Time of the incident
 - d) Item #4- Type of incident
 - e) Item #5- Page number of report. There may be multiple pages.
 - f) Item #6- Name of the investigator writing/investigating the report.
 - g) Item #7- Name of the supervisor in charge of the area where incident occurred and who was on duty at the time.
 - h) Item #8- The number of the casino gaming machine involved in the incident, if applicable
 - i) Item #9- The name of the customer, victim, or principal subject of the investigation

- j) Item #10- The primary residential address of person identified in Item #9.
 - k) Item #11- The primary and secondary telephone numbers of person identified in Item #9
 - l) Item #12, 13, 14- Same as #9 through #11 if more than one subject.
 - m) Item #15,16,17,18,19,20- Name, address, phone number(s) of any witness(es) to the incident.
 - n) Item #21- Investigator checks "yes" or "no" to indicate whether follow up investigation or corrective action is required.
 - o) Item #22- If incident was covered by surveillance cameras, record camera number so that video can be retrieved.
 - p) Item #23- Indicate whether investigator has already requested or obtained video tape of incident, by checking "yes" or "no".
 - q) Item #24- Note the report numbers of any related Security or Commission reports.
 - r) Item #25- Check "yes" or "no" to indicate whether evidence was seized, and describe evidence and its location, if any.
 - s) Item #26- Provide a thorough, detailed explanation of the incident. (NOTE: Too much information is always better than not enough).
3. Attachment "C" is the Incident Report supplemental sheet. This sheet will be used when there is insufficient space on the face sheet of the report to record all necessary information. The supplement sheet shall be filled out with respect to the numbered sections as follows:
- a) Item #1- The same Incident Report number as face sheet.
 - b) Item #2- The appropriate sequential page number.
 - c) Item #3- All additional information required to complete the Incident Report.

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ATTACHMENT "A"

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[illegible]

VIEJAS INCIDENT REPORT

Page ____ (5) of ____

IR. No (1)	Date (2)	Time (3)	Type of incident (4)
Investigator (s) Name (6)		Department Supervisor on Duty (7)	Machine No. (8)
Regulatory Violation <input type="checkbox"/> Criminal Violation <input type="checkbox"/> Internal Control Violation <input type="checkbox"/> Other <input type="checkbox"/>			
Subject #1 Name (9)		Address (10)	Phone (11)
Subject #2 Name (12)		Address (13)	Phone (14)
Witness #1 Name (15)		Address (16)	Phone (17)
Witness #2 Name (18)		Address (19)	Phone (20)
Follow up or Corrective Action Required? Yes <input type="checkbox"/> (21) No <input type="checkbox"/>		Video Camera/Tape No. (22)	Video Tape Copy Requested? Yes <input type="checkbox"/> (23) No <input type="checkbox"/>
Associated Surveillance/Security Report No (s) (24)		Evidence Seized? Yes _____ No _____ Location of Evidence: (25)	

Detailed Explanation of Incident

(26)

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Incident Report Supplemental Page
LR No. _____ (1) _____

Page__ (2) __ of __

(Attachment "C")

(3)

GCR003 AMENDMENTS

<u>DATE</u>	<u>SECTION</u>	<u>SUMMARY</u>
July 16, 1999	Section III 5	added words to clarify vendor licensing requirements.
July 16, 1999	Section XI 7	replaced old paragraph 7 with new
	(Page 15)	paragraph 7 clarifying due process on
		license suspensions.
July 16, 1999	Section XI 8 a and b.....	added several words for clarification of
	(Page 15)	due process in license suspensions, denials,
		or revocations.

VIEJAS TRIBAL GAMING COMMISSION REGULATION
SUBJECT: TRIBAL LICENSING

I. PURPOSE

The purpose of this regulation is to set forth standards of eligibility for issuing Tribal Gaming Licenses to gaming employees as well as a uniform process for the issuance of licenses to vendors and suppliers of gaming equipment, supplies, or services. These standards and processes must be in compliance with National Indian Gaming Commission (NIGC) requirements, any Compact, and Tribal Gaming Ordinance requirements.

II. POLICY

The Viejas Tribal Ordinance requires licensing of the gaming facility, all gaming employees, any management contractor, and the manufacturers and suppliers of gaming devices and services. The responsibility for licensing is with the Tribal Gaming Commission. Prior to the issuance of a license, the Gaming Commission is required to conduct thorough background investigations, including criminal history checks, and to make suitability determinations. It is the policy of the Tribal Gaming Office that these responsibilities will be carried out in accordance with the National Indian Gaming Commission (NIGC), with the requirements of any Tribal State Compact, and with Tribal Gaming Ordinance Regulatory Guidelines, as well as the guidelines set forth in this procedure.

III. LICENSE REQUIRED

1. The gaming facility shall be licensed prior to commencement of operation and annually thereafter. Prior to licensing the facility shall have been inspected and certified to have been constructed in conformance with applicable building codes, shall have appropriate fire suppression system, and verification that all employees are properly licensed.
2. Every key employee and primary management official of the operation shall be licensed. In accordance with Section 2.08 of the Tribal Ordinance, key employees and primary management officials shall be defined as:
 - a) Bingo caller, supervisor, cashier;
 - b) Counting room supervisor, and count and drop personnel;
 - c) Chief of security; and security personnel;
 - d) Custodian of gaming supplies or cash;
 - e) Floor management, card room supervisor;
 - f) Pit boss, card room shift supervisor;

- g) Dealer;
 - h) Cashier;
 - i) Croupier;
 - j) Approver of credit;
 - k) Any employee engaged in finance or accounting functions;
 - l) Custodian of gambling devices including persons with access to cash and accounting records within such devices;
 - m) If not otherwise included, any other person whose total cash compensation is in excess of \$50,000.00 per year; or
 - n) If not otherwise included, the four most highly compensated persons in the gambling operation;
 - o) A person having contracted management responsibilities or a person with authority to hire and fire employees; or set up working policy for the gaming operation;
 - p) Any person who is a financial controller, or who has financial management operation and/or responsibility for a Gaming Operation.
3. Non gaming employees shall also be or issued a work permit by the Gaming Commission. Non gaming employees shall be any employee of the gaming facility who does not fall within the definition of key employee or primary management official. The Gaming Commission shall retain sole discretion regarding the extent of any background investigation and application information required. Generally, a non-gaming employee will not be required to fill out designated portions of the standard license application.
4. Management contractors, including their principals, engaged by the Tribe to assist in the management of a facility or any gaming activities shall be licensed. (Note: the contractor shall notify the Tribal Gaming Office of any change or addition of principals and shall submit license applications for those new principals within 30 days of their appointments). Principal is defined as:
- a) Officers and Directors
 - b) Principal management employees including Chief Executive Officers, Chief Financial Officer or General Manager.
 - c) Each of its owners or partners if an unincorporated entity.

- d) Each of its shareholders owning more than 10 percent of its shares if a corporation.
 - e) Any person who has provided more than 10 percent of the financing for the entity, other than a banking institution.
 - f) Each beneficiary or trustee of a trust of the entity.
5. Each manufacturer and supplier of gaming devices, equipment, supplies, etc. and each person or entity providing other goods or services to the gaming facility, and their principals shall be licensed. The Tribal Gaming Commission retains the right to license and investigate the principals of any manufacturer, supplier of gaming devices or supplies, or provider of goods or services. However the customary guideline shall be business volumes of dollar amounts the same as required for contract review and approval (\$25,000.00 in any one month or \$100,000.00 cumulatively in a fiscal year). In addition, certain contracted professions shall be exempt from licensing, including but not limited to, attorneys, certified public accountants (CPA's), bona fide banking institutions, insurance companies, telecommunications providers, and public utilities.

IV. REQUIRED APPLICATION INFORMATION AND DOCUMENTATION

1. Each applicant for a license shall fill out an Employment/license application. In accordance with National Indian Gaming Commission guidelines and Section 2.08 of the Viejas Tribal Ordinance, the application shall at a minimum require the following:
 - a) The face of each application shall first include notices to the applicant regarding the Privacy Act, use of Social Security Numbers and the giving of false information. Signature space will be provided for the applicant's acknowledgment and understanding of these notices. The specific wording of these notices is set forth in Section 2.08 Sub-Section "B" of the Ordinance. (Note: All existing employees must be given these notices and must sign acknowledgment of same).
 - b) Full name, including alias(es) oral or written, Social Security Number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written).
 - c) Current, and for the previous 10 years, business and employment positions held, any ownership interests in those businesses, and residential addresses and drivers license numbers.
 - d) The names, current addresses and phone numbers of at least, three personal references, including one reference who knew the applicant during each period of residency listed in Paragraph "c" of this Section.

- e) Current business and residence telephone numbers.
 - f) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses.
 - g) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit (related to gaming), whether or not such license or permit was granted.
 - h) The charge(s), the name and address of every court involved for any and each felony for which there is an on-going prosecution or a conviction. Also the date(s) and disposition(s) of each.
 - i) The charge(s), the name and address of any court(s) involved with any misdemeanor conviction(s) or on-going prosecution(s) (excluding minor traffic violations) occurring within 10 years of application. Also the date(s) and disposition(s) of each.
 - j) The charge(s), the name and address of any court(s) involved in any criminal charge(s) (except minor traffic charges) whether or not there is a conviction if the charge has been filed within 10 years of the date of application. Also the date(s) and disposition(s) of such charge(s).
 - k) The name and address of any licensing or regulatory agency with which such person has filed an application for an occupational license or permit, whether or not such license or permit was granted.
2. Each applicant for a license will have two passport size photographs taken to accompany the application package.
 3. Each applicant for a license will sign an information release authorization form allowing access to records including but not limited to: medical, financial, law enforcement, military and regulatory agencies.
 4. Two fingerprint cards will be filled out for each applicant, with all fingerprints to be taken by the Gaming Commission.
 6. Manufacturers, suppliers of gaming devices, suppliers of gaming services and management contractors and their principals as defined in Section III, Paragraph 4 will fill out the same documentation. (Note: If a license applicant defined in this paragraph submits to State backgrounds, the Tribal Gaming Office, at its discretion, may accept the State's investigation results as sufficient).

V. LICENSING FEES

1. The fee for licensing shall be determined by the Tribal Gaming Office and approved by the Tribal Council.
2. Fees shall be posted on the application form and shall be sufficient to cover costs incurred for background investigations and fingerprint processing.
3. Manufacturers, suppliers, management contractors, and financiers applying for a license may be required to post a bond sufficient to cover the anticipated costs of conducting background investigations of the entity and its principals, as determined by the Tribal Gaming Office. (Note: If a license applicant defined in this paragraph submits to State backgrounds, the Tribal Gaming Office, at its discretion, may accept the State's investigative results as sufficient).

VI. PROCESSING EMPLOYMENT/LICENSING APPLICATIONS/TEMPORARY LICENSES

The following procedure shall be followed for licensing:

1. Potential employees report to Casino Human Resource Office.
2. Casino Human Resource Office will give the applicant the following:
 - a) Employment/Licensing Application
 - b) Viejas Tribal Gaming Commission Information Release Form
 - c) Drug/Alcohol Test Consent Form
3. The applicant will fill out the application and information release form and have notarized and will return the package to the Casino Human Resource Office.
4. The Casino Human Resource Department will make copies required and will forward to the Gaming Commission:
 - a) Original Employment/Licensing Application
 - b) Original Viejas Tribal Gaming Commission Information Release Form (Notarized)
 - c) Two photographs
5. The applicant must then report to the Tribal Gaming Office for fingerprint processing.
6. The Tribal Gaming Office shall conduct the following activities to expedite preliminary processing of an applicant:

- a) Obtain fingerprints on an applicant (two sets).
 - b) Review application for completeness
 - c) Ensure application package is complete, i.e. information release signed and notarized, complete application, fingerprint cards, photos, etc..
 - d) Thoroughly review contents of application for any disqualifying information disclosed.
 - e) Conduct a preliminary local criminal history inquiry by computer.
 - f) If no disqualifying information appears on application and there is no disqualifying local criminal history, the Gaming Office shall notify the Human Resource department that it is authorized to issue a "temporary" badge/license. (Note: This initial "temporary" licensing process should be expedited to assist Human Resources in meeting their hiring needs. In most cases this temporary licensing process should not exceed 72 hours).
7. The Tribal Gaming Office shall then invoice the Casino or the applicant for the cost of processing fingerprints through the NIGC/FBI. The Gaming Office must clearly specify on the check request that checks are to be "made payable to the NIGC" and forwarded back to the Tribal Gaming Commission office for enclosure with the appropriate application and fingerprint packages mailed to NIGC.
8. For key employees and primary management officials, the Tribal Gaming Commission will make a copy of the Employment/License Application and will forward the copy of the Application, fingerprint card, photograph, and required fee (\$35.00) to National Indian Gaming Commission. The Tribal Gaming Commission will then complete the required background investigation.

VII. PROCEDURE FOR VENDORS

Application for licensing management contractors, manufactures and suppliers of gaming devices, suppliers of gaming services, and all of their principals shall be required. (Note: If a license applicant defined in this paragraph submits to State backgrounds, the Tribal Gaming Office may at its discretion, accept the State's Investigative results as sufficient).

- 1. The Tribal Gaming Office shall be responsible for licensing management contractors, manufactures and suppliers of gaming devices, suppliers of gaming services and all of their principals. These entities and principals are defined in Section III, 4 of this regulation.

2. The principals of these entities shall be provided with applications and documents as required by the Viejas Tribal Gaming Commission.
3. All principals will complete and sign the documents, have the signatures notarized as indicated and return the documents to the Tribal Gaming Office, along with two passport size photographs.
4. If the applicant is not in the San Diego area, the Tribal Gaming Office will determine a conveniently located law enforcement agency near the entity being licensed. The fingerprints of principals will be obtained in accordance with Section VIII of this procedure.
5. The principals shall be subject to the same background checks described in Section IX of this regulation.
6. Licenses will be issued and reviewed in accordance with the procedures set forth in Section X of this regulation.

VIII. PROCEDURE: Fingerprints

1. Fingerprint cards used for criminal history record inquiries for gaming employees will be ordered from and supplied by the National Indian Gaming Commission (NIGC) with their ORI (Originating Agency Identifier) number preprinted on them.
2. A duly authorized designee of the Tribe must properly execute a memorandum of understanding (MOU) and return it to the NIGC before the NIGC will forward any criminal history reports to the Tribal Gaming Commission. This MOU guarantees that the Tribal Gaming Commission will not allow improper or unauthorized dissemination of criminal history information in accordance with FBI guidelines. In addition, the Tribal Gaming Commission shall guarantee the reasonable maintenance of security for that information.
3. If an authorized agency other than the Tribal Gaming Commission will be taking fingerprints, the Tribal Gaming Commission will supply that agency with the required quantity of fingerprint cards.
4. Upon obtaining fingerprints from an applicant, the Tribal Gaming Commission investigator will immediately forward the fingerprint cards along with a applicable processing fee to NIGC. If fingerprints are obtained by an authorized agency other than the Tribal Gaming Commission that agency shall immediately forward those cards to the Tribal Gaming Commission.

5. NIGC will, upon receiving the fingerprint card(s), forward the card(s) to the FBI for a criminal history check. When the FBI returns the fingerprint card and criminal history record to NIGC, NIGC will retain and file the original card and report in "Indian Gaming Individual Records Systems" and will forward a copy of the criminal history record to the Tribal Gaming Commission.
6. Upon receiving a copy of the criminal history report from the NIGC, the Commissioner or designee will use that information in determining the applicant's eligibility for a license. Such report will be retained in the applicant's secure licensing file.

IX. PROCEDURE: Background Investigation

1. In accordance with Section 2.09 of the Ordinance the, Tribal Gaming Commissioner or designee shall have responsibility for conducting or causing to be conducted background investigations and for making eligibility determinations. Such background investigations shall include as a minimum:
 - a) Written or oral verification of information provided by applicant on application form.
 - b) An inquiry into the applicant's prior activities, reputation, habits, and associations.
 - c) Interviews with a sufficient number of knowledgeable people such as former employers, personal references, and others to whom referred, to assist in the eligibility determination.
 - d) Documentation of any potential problem areas noted and all disqualifying information obtained.
2. The Commissioner or designee shall prepare an investigation report. This report shall include, but not be limited to:
 - a) The steps taken in conducting the background investigation
 - b) The results obtained
 - c) The conclusions reached
 - d) The bases for those conclusions
3. The Commissioner shall be responsible for reviewing and approving all investigative work.
4. The Commissioner shall make the decision regarding licensing eligibility.

5. The Commissioner or designee shall then forward copies of the application, the investigative report, and the eligibility document to the National Indian Gaming Commission within 60 days after an employee begins work.
6. If a license is not issued to an applicant, the Tribal Gaming Office shall still notify the NIGC and forward copies of the application, investigative report, and eligibility determinations to the NIGC for inclusion in their "Indian Gaming Individuals Records Systems". The Tribal Gaming Commission shall also notify applicant pursuant to Section XI, 8, a) or b) of this regulation.
7. The Tribal Gaming Office shall maintain secure and confidential licensing files on all applicants. These files shall include but not be limited to:
 - a) The original employment/license application
 - b) The original investigative report
 - c) The original eligibility determination form
 - d) Copy of the criminal history record received from NIGC
 - e) Photograph
 - f) All files shall be maintained for a minimum of 3 years after termination of employment for inspection by the Chairman of the National Indian Gaming Commission.
8. The Tribal Gaming Office retains the right to conduct any further or additional background investigation that it deems appropriate, either before or after the issuance of a license.

X. PROCEDURE: Licensing Eligibility Determination, Employment Standards, and Grounds for Issuing, Suspending, Revoking, or Denying a Gaming License.

1. The Commissioner shall formulate decisions regarding the suitability or eligibility of each applicant to be issued or denied a gaming license, or to have a license suspended or revoked.
2. The Commissioner's suitability determination shall be based on criminal history information obtained from NIGC and any other criminal history checks conducted as well as all other information obtained through the investigative efforts of the Tribal Gaming Commission.
3. The information obtained as described in Paragraph 2 above must be evaluated in accordance with guidelines and requirements as set forth in:

- a) NIGC Regulations
 - b) Any Compact with the State of California
 - c) The Tribal Gaming Ordinance
 - d) Rules and Regulations of the Viejas Tribal Gaming Office
4. Section 4.04 of the Tribal Gaming Ordinance sets forth the minimum license suitability requirements.
5. In addition to eligibility requirements for licensing as set forth in the Ordinance, the Tribal Gaming Commission shall require:
- a) No license or finding of suitability shall be granted unless and until the applicant has satisfied the Tribal Gaming Office that the applicant:
 - i) Is a person of good character, honesty, and integrity;
 - ii) Is a person whose backgrounds, reputation and associations will not result in adverse publicity for the Tribal Gaming Operation; and
 - b) If financing by the applicant is involved as part or all of the license application, no license or finding of suitability shall be granted unless and until the applicant has satisfied the Tribal Gaming Office that the funding of the enterprise is:
 - i) adequate for the nature of the enterprise,
 - ii) and is from a suitable source. The suitability of the source of funds shall be determined by the standards enumerated in paragraph a (i) (ii) above.
 - c) That any criteria for licensing set forth in any Compact between the Tribe and the State of California have been met.
6. Other licensing suitability guidelines and requirements include consideration of all of the following:
- a) Whether the applicant knowingly and intentionally provided false statements or information or omitted information on the application.
 - b) Whether the prior activities, criminal record, reputation, habits, and association indicate that the person may be a threat to the public interest or to the effective regulation and control of gaming. Whether association

with or employment of this applicant creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto.

- c) Whether the applicant has violated, failed, or refused to comply with the provisions, requirements, conditions, limitations, or duties imposed by any provision of a Compact or the Ordinance, or possess knowledge that such violation has occurred upon any premises occupied or operated by any such person or over which he or she has/had substantial control?
- d) Whether the applicant knowingly caused, aided, abetted, or conspired with another to cause any person or entity to violate any of the laws of any State, the provisions of a Compact, or the Tribal Ordinance.
- e) Whether the applicant has ever obtained a license by fraud, misrepresentation, concealment, or through inadvertence or mistake.
- f) Whether the applicant has ever been convicted of, or forfeited bond upon a charge of, or plead guilty to, forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payment or reports to any Tribal, State, or U.S. Government Agency at any level, or filed false reports therewith, or of any similar offense(s), or of bribing or otherwise unlawfully influencing a public official or employee of a Tribe, a State, or the U.S. Government, or of any felony or misdemeanor involving any gaming activity, physical harm to individuals or moral turpitude.
- g) Whether the applicant is subject to current prosecution or pending charges, or a conviction under appeal for any of the offenses listed above. Upon request of the applicant, the Tribal Gaming Office may defer decision on the application pending the results of such prosecution or appeal.
- h) Whether the applicant has ever had a gaming license issued by any State, Tribe, or foreign gaming regulatory agency revoked or denied.
- i) Whether the applicant has demonstrated a willful disregard for compliance with a gaming regulatory authority in any jurisdiction including suspension, revocation, and denial of application or forfeiture of license.

- j) Whether the applicant has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the laws of any state, if such pursuit creates probable cause to believe that the participation of such person in gaming or related activities would be detrimental to the proper operation of authorized gaming or related activity. Occupational manner shall be defined as the systematic planning, administration, management or execution of an activity for financial gain.
 - k) Whether the applicant is a career offender or a member of a career offender organization or an associate of a career offender or career offender organization in such a manner which creates probable cause to believe that the association is of such a nature as to be detrimental to the proper operation of the authorized gaming or related activities. Career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purposes of economic gain utilizing such methods as are defined criminal violations of Federal or Tribal laws or the public policy of any State. A career offender organization shall be defined as any group of persons who operate together as career offenders.
 - l) Whether the applicant has failed to provide any information requested by the Tribal Gaming Office within 14 days of the request for the information.
 - m) Made a misrepresentation of, or fails to disclose a material fact to the Tribal Gaming Office or any State Gaming Agency.
7. The issuance of a "Conditional Gaming License" to a person of marginal suitability shall require the applicant to sign an agreement with the Tribal Gaming Commission. This agreement may include but not be limited to the following conditions:
- a) Enrollment in and completion of an alcohol treatment program approved by the Tribal Gaming Office.
 - b) Any misdemeanor convictions of any kind (except traffic) while holding a "Conditional Gaming License" shall be grounds for immediate license revocation.
 - c) The licensee shall not appear at any Viejas Tribal Gaming Facility, either on duty or off, while intoxicated. Such appearance shall be grounds for immediate license revocation.

- d) The licensee shall not test positive for the use of drugs or alcohol in any required random employee drug and alcohol testing program established by Casino Management. Any positive testing result shall be grounds for immediate revocation of the gaming license.
- e) An agreement that the licensee shall promptly satisfy any tax liens, civil judgments, court ordered child support or other financial obligations.

XI. PROCEDURE: Issuing, Denying, Suspending, Revoking Licenses

1. If the Tribal Gaming Office has determined that an applicant is eligible for a license in accordance with Section X of this regulation, and if the Tribal Gaming Office receives no notice of objection from the NIGC within 30 days of their receipt of the application and investigative report of an applicant, or no objection from any State Gaming Agency, a license shall be issued.
2. The Tribal Gaming Office shall respond to any request for additional information from the National Indian Gaming Commission concerning an applicant for a position as a key employee or a primary management official who is the subject of a report. Such a request shall suspend the 30 day period mentioned in paragraph 1 above until the NIGC receives the additional information.
3. If, within the 30 day period mentioned above, the Tribal Gaming Office receives a written statement from NIGC objecting to the issuance of a license, the Tribal Gaming Office shall reconsider the application, taking into account these objections. However, the Tribal Gaming Office shall make the final decision regarding the issuance of a license to an applicant, who shall have the right to appeal to the Gaming Review Board.
4. The Tribal Gaming Office may suspend, revoke, or deny the license of any applicant, key employee, primary management official, or entity, upon the occurrence of any of the following:
 - a) Notification by the NIGC that the licensee is not eligible for a license in accordance with Section X of this procedure.
 - b) The Tribal Gaming Office receives verified (and) (or) reliable information from any source regarding a licensee's ineligibility in accordance with Section X of this procedure.
 - c) The Tribal Gaming Office has probable cause to believe that the licensee has, by act or omission, violated provisions of compact or Tribal Ordinance which may endanger or interfere with the operation of the Gaming Facility.

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- d) The Tribal Gaming Office has reason to believe that the continued licensing of a person or entity (other than the Gaming Facility) constitutes an immediate threat to the public health, safety, or welfare.
 - e) The Tribal Gaming Office learns of the violation(s) of any condition of a conditional license.
 - f) The Tribal Gaming Office learns that the licensee has violated Viejas Casino internal controls or any Federal, State or Tribal Laws, or Gaming Regulations.
 - g) The tribal Gaming Office has reason to believe that the licensee is involved in any theft, misappropriation, misuse or abuse of Tribal assets.
 - h) The licensee engages in any conduct which brings discredit or embarrassment to the Casino or Tribe, or interferes with the normal operation of the Casino.
 - i) The licensee fails to disclose any required information on any State or Tribal gaming license application.
 - j) The licensee fails to respond to a request from the Tribal Gaming Commission within 14 days of the date of the initial request.
5. Any denial, suspension or revocation licensing action pursuant to paragraph 4 above shall require:
- a) Written, certified, return receipt requested, or personally hand served notification of the suspension and/or pending revocation be given to the licensee 30 days in advance of the proposed action, unless under paragraph 6 below.
 - b) Such written notification shall advise of the licensee's right to a hearing and shall specify the date, time and place for the hearing.
 - c) Such notification shall also advise the licensee that failure to appear for a scheduled hearing shall forfeit any further right to appeal.
 - d) Upon conclusion of the hearing the Gaming Review Board shall make a final ruling within 3 days and the licensee shall be notified in writing of the final ruling within 3 days of the ruling.

6. The Tribal Gaming Office may summarily suspend any license if:
 - a) The licensee has falsified an application;
 - b) In the opinion of the Tribal Gaming Office, the licensee poses an immediate threat to the integrity of the gaming operation or a threat to the public safety or welfare.
7. In the event of a summary suspension, the licensee shall be notified in writing immediately of the reason for the suspension, the Commission's intent, and the right to appeal the suspension, and the appropriate process. If after completion of an investigation involving a summary suspension, it is the Commission's intent to revoke a license, the licensee shall be so notified in writing. Such notification shall include a description of the appeal process and the licensee's right to do so. It shall be incumbent upon the licensee to make their desire to appeal known to the Commissioner in writing within fourteen (14) days of receipt of the Commission's notice.
8.
 - a) In the event that the Tribal Gaming Office is considering the denial of a regular license to an applicant whether currently employed on a temporary license or not, the applicant shall be given fourteen (14) days written notice of the proposed action by hand serving or certified mail, which notice shall also inform the applicant of the right to appeal. Such notification shall also advise the licensee of the appeal process. The hearing shall be conducted in accordance with established Gaming Review Board procedures.
 - b) If the Commission is considering the denial or revocation of a regular license to an applicant who has been terminated (voluntary or otherwise) the applicant shall be given fourteen (14) days written notice of such action by certified mail. The applicant shall be advised of the right to appeal, and it shall be incumbent upon the applicant to notify the Commission in writing, within fourteen (14) days of receipt of the notice, to request an appeal. Upon receipt of the notice the Commission and the Gaming Review Board shall schedule a hearing in accordance with their procedures.
9. Revocation or denial of a license: after the appropriate hearings the Gaming Review Board may rule for permanent revocation or denial of a license. Such a ruling should be based on the licensee's failure to satisfy eligibility requirement as specified in Section X or Section XI 4 of this procedure. Revocations or denials of licenses shall require:
 - a) Written notification to the licensee regarding the revocation or denial.
 - b) Written notification to NIGC regarding the revocation or denial.
(Note: if the hearing was a result of NIGC notification of ineligibility and license is reinstated rather than revoked, NIGC must be notified.)

- a) Written notification to the licensee regarding the revocation or denial.
 - b) Written notification to NIGC regarding the revocation or denial. (Note: if the hearing was a result of NIGC notification of ineligibility and license is reinstated rather than revoked, NIGC must be notified.
- 10. The Tribal Gaming Office shall notify all applicants of the status of their application within 10 days after the completion of the background investigation. This shall include notifications of denial of a license. The issuance of a Tribal Gaming license presents no guarantee or right to employment or continued employment.
- 11. Duration and Renewal: All regular licenses shall be effective for one year from the date of issue. Renewal applications must be received by the Tribal Gaming Commission at least 30 days prior to the expiration of the licensee. Any licensee applying for renewal may continue to be employed or engaged under the expired license until the Tribal Gaming Office takes action on the renewal application. Applicants for renewal shall provide updated material as requested by the Commission but shall not be required to resubmit historical data already available to the Tribal Gaming Office. Additional background investigations may be performed at the discretion of the Tribal Gaming Office. Updated criminal history checks will be required.
- 12. Gaming Operations Management shall notify the Tribal Gaming Office of all employee terminations, both voluntary and involuntary, and shall provide the reasons and circumstances for the terminations. In addition, at the time of the termination, operations management will retrieve the employee's identification card and/or gaming license and forward same to the Tribal Gaming Office. Upon receipt of this information, the Tribal Gaming Office shall:
 - a) Review the circumstances surrounding the termination.
 - b) Determine whether to suspend or revoke the employee's license.

Make appropriate notification to NIGC if the license is suspended or revoked.

**VIEJAS TRIBAL GAMING COMMISSION REGULATION
SUBJECT: BARRING/EXCLUSION**

I. PUROSE

This Gaming Commission Regulation sets forth a standardized process and guidelines for the temporary and long-term exclusion of persons from the Viejas Gaming Facility.

II. POLICY

In accordance with Chapter VIII of the Tribal Gaming Ordinance dealing with "exclusion or ejection of individuals," the following procedure shall apply:

III. PROCEDURE FOR EXCLUSION

1. Any person may be excluded from the Gaming Facility for conduct which is detrimental to the integrity or reputation of the gaming facility. Such conduct shall include but not be limited to:
 - a) Violations of applicable State or Federal Laws and Regulations
 - b) Violations of any Tribal-State Compact
 - c) Violations of the Tribal Gaming Ordinance
 - d) Conduct which is contrary to the public interest or Tribe's interest
 - e) Conduct which adversely affects the health, security, and welfare of the Casino, or of patrons or employees, including but not limited to cheating, assault, theft, panhandling, misrepresentation, fraud, threatening or intimidating behavior, or intoxication and disorderly conduct.
2. Only Security personnel or employees of the Gaming Commission in coordination with casino management are authorized to exclude a person from the Gaming Facility for reasons set forth above.
3. Any designated member of casino management may request Security or Gaming Commission personnel to exclude someone from the Gaming Facility. The following procedure shall be followed:
 - a) Call for the presence of Security Officer or Tribal Gaming Commission Inspector on duty at the time.
 - b) Explain the circumstances to the Security Officer or Inspector.

- c) Provide all applicable supporting documentation including such things as written statements, forms, copies of reports, video tapes, etc.
- 4. The Security Officer or Inspector, upon being advised by casino management of the need to exclude a person, will:
 - a) Obtain valid identification and obtain current address of subject and fill out a "Notice of Exclusion". Read the content of the notice to the person being excluded. (See attachment A).
 - b) Give a copy of the notice to the person being excluded. (The form is printed in triplicate).
 - c) Write an incident report describing the situation and attach a copy of the "Notice of Exclusion" and all other supporting documentation.
 - d) Forward copy of the complete report, including the Notice of Exclusion, to Commissioner.
- 5. When an Inspector initiates the act of excluding a person from the facility, he/she will:
 - a) Call for the presence of a security officer to help deter any potential hostile reaction.
 - b) Follow all steps as outlined under Paragraph 4 above.

IV. PROCEDURE FOR EXCLUSION

- 1. An initial notice of exclusion shall be valid for a period of up to 30 days. Any desire to exclude a person beyond 30 days shall be expressed in writing to the Commission, specifying the desired length of exclusion and justification. All extended exclusion decisions shall be made by the Commissioner only.
- 2. Upon receipt of the incident report and "Notice of Exclusion," the Tribal Gaming Office shall update the status of the "List of Excluded Persons." This list is maintained in Excluded Person's Book in the Commission office with copies in security and surveillance.
- 3. The Commissioner shall review the request for exclusion and decide if the person should be excluded beyond 30 days, and if so, the duration of the exclusion.
- 4. If the exclusion exceeds 30 days, the Commissioner (or designee) shall notify the excluded person by certified return receipt mail of the decision of the Tribal Gaming Commission.

5. The notification described in Paragraph 4 above shall also include notice of the right to appeal. This notification shall specify that the person must notify the Tribal Gaming Commission in writing, within 5 working days of receipt of notification of being excluded, that they desire a hearing. The notice shall also state, that failure to request a hearing shall result in the loss of any further right to appeal. Any hearing conducted under this section, shall be conducted by the Commissioner or someone designated by the Commissioner for that purpose.
6. Steps 2 through 5 of this section shall be accomplished within 30 days of issuing the Notice of Exclusion.
7. The Commissioner may decline to grant a hearing and make the exclusion decision based on evidence at hand. A hearing should only be granted when there is reason to believe that the appellant has valid evidence to dispute the facts or evidence produced at the time of the exclusion.
8. Within 30 days of receiving proper notification that the excluded person desires a hearing, hearing date and time will be set and the person shall be notified of said date and time by certified mail. The person shall also be advised that failure to appear for said hearing is a forfeiture of any further right to appeal.
9. Upon conclusion of the hearing, the person shall be notified within 5 days, by certified mail, of the Commissioner's final decision.
10. The Commission shall provide updated lists of excluded persons to the Gaming Facility.
11. Any person, after formal notice of exclusion, who enters any Viejas Gaming Facility shall be subject to arrest for criminal trespass. Pursuant to Section 8.02 of the Tribal Gaming Ordinance it shall be an ordinance violation for any employee to knowingly fail to eject any excluded person from the Gaming Facility.

Office of the Gaming Commissioner Exclusion Letter

Incident Report# _____ Page: _____ of _____
 Exclusion Start: _____ Exclusion Stop: _____
 Exclusion Extended: _____ Extended Stop: _____

From: The Chief of Security/ Gaming Commission. To: _____

It has been determined that your presence at the Viejas Casino & Turf Club of Alpine, California is not in the best interest of the Viejas Band of Kumeyaay Indians. You are hereby excluded from the Viejas Casino & Turf Club for the following reason(s): _____

You are not under any circumstances to re-enter any portion of the Viejas Casino & Turf Club for 30 days. This Exclusion will be in effect from the date of this Letter. After Review of this incident by the Tribal Gaming Commissioner, the length of your exclusion may be extended. If you are to be excluded beyond 30 days, you will be advised in writing along with notification of your appeal rights.

Your re-entry upon any portion of the Viejas Casino & Turf Club during any period of exclusion will subject you to the possibility of arrest for criminal trespass.

Authority: Code of Federal Regulations, Title 25 - Indians, Part 52 - Tribes organized under section 16 of the Indian Reorganization Act of June 18, 1934, and Part 11 - Law and Order on Indian Reservations under section 11.

Copy of Drivers License and/or
 Valid LD. information and current address
 Here:

Photograph
 Here:

I _____ hereby acknowledge that I have received this exclusion letter and understand its contents.
 (Signature of Excluded Person)

Agent/Officer Serving Letter _____ LD# _____

VIEJAS TRIBAL GAMING COMMISSION REGULATION**SUBJECT: PROCUREMENT, INSTALLATION, OPERATION, ACCESS,
REMOVAL, AND MAINTENANCE OF GAMING DEVICES****I. PURPOSE**

This regulation shall set forth procedural requirements for the procurement, testing and certification of gaming devices upon installation and operational and maintenance requirements. In addition access to the interior of devices and control of program storage media and other components. Also, covered are procedures for removal, storage or disposal of gaming devices.

II. DEFINITIONS

- (1) "Base Amount" means the amount of the progressive jackpot initially offered before it increases.
- (2) "Gaming Device" means a slot machine, including an electronic, electromechanical, electrical, or video device that, for consideration, permits: individual play with or against that device or the participation in any electronic, electromechanical, electrical, or video system to which that device is connected; the playing of games thereon or therewith, including, but not limited to, the playing of facsimiles of games of chance or skill; the possible delivery of, or entitlement by the player to, a prize or something of value as a result of the application of an element of chance; and a method for viewing the outcome, prize won, and other information regarding the playing of games thereon or therewith.
- (3) "EPROM" technically means Erasable Programmable Read Only Memory. For the purposes of this regulation EPROM shall include any programmable storage media which has an effect on game play, payouts, holds, etc. such as chips, discs, flash ROM, etc.
- (4) "Progressive Gaming Device" means a gaming device that has an increasing jackpot based on a function of credits that are bet. This includes games that award progressive jackpots or a 'pool' based on criteria other than obtaining winning symbols on the machine, such as 'Mystery Jackpot.' This does not include games that incorporate a bonus feature as part of the game theme that offer awards, which increase as the game is played and is not configurable."
- (5) "Logic Board Compartment" means any compartment or area of the device where programmable storage media which affect the game play, payouts, holds, etc. are stored, including the micro processing (logic) board.
- (6) "On Line Data System" means a computerized system performing accounting and data collection including meter readings; credits-played, credits paid, credits redeemed, currency in by denominations, games played and won, and record date and time of each access to main door and logic door and bill validator. The Central Computer may validate and maintain redemption ticket or validate jackpots, coin out, and hopper fills, and drop data for each day, provide system generated reports for accounting/auditing and management, record

error conditions, and provide immediate notification of security breaches of Class III gaming devices. (These data are accumulated daily to perform accounting and auditing functions.) This system shall also track, monitor, record and analyze comparisons between theoretical and actual hold percentages. This system may also track and record individual player activity for the purposes of accumulating points for redemption rewards.

- (7) "Progressive Jackpot" means a gaming device payoff that increases incrementally automatically over time or as the machine or another link to it is played until the jackpot is won, at which time the jackpot is reset to its "base amount".
- (8) "Wide Area Progressive" (WAP) means a series of gaming devices linked together at two or more gaming facilities in separate locations which collectively offer a common progressive jackpot.

III. PROCUREMENT OF GAMING DEVICES

- (1) Any manufacturer, distributor, or supplier of gaming devices for purchase, lease, or any other use or storage at any Viejas facility must submit a completed license application and non refundable application fee to the Viejas Tribal Gaming Commission, and receive at least a temporary vendor license from the Gaming Commission, prior to the sale, lease and delivery of any gaming devices to any Viejas facility.
- (2) Any contracts for the purchase or lease of any gaming devices shall require review and approval of the Tribal Gaming Commission prior to the execution of the contract and disbursement of any funds. One required provision of any such contracts must include language to the effect that the contract shall only be effective contingent upon obtaining and a maintaining a vendor license from the Tribal Gaming Commission.
- (3) Any gaming devices purchased, leased or otherwise provided for use at any Viejas Tribal Gaming facility shall at a minimum, comply with all technical specifications and other regulatory requirements set forth in Tribal Gaming Regulation Number GCR011.

IV. INSTALLATION OF GAMING DEVICES

- (1) Delivery of any gaming devices at any Viejas facility shall be made with all devices in tamper proof sealed containers and shall have complied with all shipping requirements specified in Tribal Regulation GCR011.
- (2) Upon delivery of any gaming devices to any Viejas facility no one shall break the seal of any delivery container, nor shall any device be removed from the shipping container without the physical presence and authorization of a Tribal Regulatory official.
- (3) Tribal Regulatory officials shall take possession of all keys to all locks on all devices.
 - (a) If locks are already installed on devices upon delivery, Commission agents shall take possession of all keys as the devices are removed from the container.
 - (b) If locks are installed at some point after delivery, Commission agents shall be present at the time of lock installation and collect all keys at that time.
 - (c) Commission agents shall have sole possession of all keys to the logic board areas, or areas where programmable storage media are located which control

the game or payouts. All other keys shall be issued by the Commission in sets on an as needed basis, i.e. Pull Team, Slot Technicians, etc.

- (4) The installation of gaming devices for play at any Tribal gaming facility shall be done by competent, qualified technicians. Prior to putting any gaming device in play the following shall be required.
- (a) The device shall be connected to an on line data monitoring system.
 - (b) Game control program storage media shall be tested, validated and sealed in place on its logic board or microprocessor compartment with tamper proof tape, by a representative of the Tribal Gaming Commission or their designated agent and in the presence of slot operations personnel.
 - (c) The device shall be inspected by agents of the Commission for hardware compliance with the specifications of Tribal Gaming Regulation GCR011. Special attention will be given to all independently keyed locks.
 - (d) The facility and the Commission will jointly make and maintain a comprehensive list which will include but not be limited to:
 - (i) The manufacturer's serial number of every device.
 - (ii) The name of the manufacture of each device.
 - (iii) The type of gaming device, i.e. three (3) reel slot, video, etc.
 - (iv) The games available on each device.
 - (v) The individual Viejas unique I.D. number assigned to each device.
 - (vi) The program storage device I.D. number and corresponding test validation signature code.
 - (e) The facility will prepare a detailed floor plan clearly depicting the exact location of every device.
 - (f) Every device shall be individually functionally tested to confirm the following:
 - (i) That bill validators and coin acceptors are accurately reading and crediting currency and coin or tokens which are inserted.
 - (ii) That the games play as programmed.

- (iii) That the device is accurately communication with the on line data system in all required parameters such as:
 - (A) All accounting data recording.
 - (B) Meter readings accurately recording
 - (C) All door sensor switches accurately recording door open/close status.
- (g) For wide area progressive (WAP) installations additional testing may be require by the WAP provider. There will also be unique additional surveillance camera requirements which must be functional prior to putting any WAP devices in play.

V. OPERATION

- (1) **CHIP CONTROL:** Logic boards with all programmed storage media (chips) installed by the manufacturer may be shipped installed in the gaming device with the initial purchase and transportation of gaming devices. Any subsequent purchases of any upgraded or replacement program storage media which control the play of the game or payouts, i.e. EPROMS, RAMS, etc. shall be shipped from the manufacturer or supplier directly and only to the Tribal Gaming Commission. The Tribal Gaming Commission shall maintain possession of all game and payout control media in a secure place and issue them to operations as requested and as needed. Commission compliance officers responsible for the safekeeping and issuance of chips shall:
 - (a) Maintain a log sheet of all chip activity which at a minimum shall contain the following information:
 - (i) Date received from supplier.
 - (ii) Name of supplier.
 - (iii) I.D. number of chip and signature code.
 - (iv) Quantity received.
 - (v) Date and quantity issued.
 - (vi) Date tested and validated/by who.
 - (vii) Issued to who and reason.
 - (b) Test and validate the programs of every chip, comparing it against an approved list from the independent test lab. This shall be done before any chip is issued for use and in the presence of slot operations personnel.
 - (c) Upon testing and validating the chip or other media, the compliance officer shall witness the installation of the chip on the logic board or in the micro

processor compartment and shall secure in place with tamper proof security tape.

- (2) Agents of the Tribal Gaming Commission shall be the sole possessors of keys to the logic board or microprocessor compartments of the gaming device. They shall also be the only authorized persons to procure and possess tamper proof security tape.
- (3) The operations department responsible for gaming devices will be authorized to maintain a limited supply of pretested and certified spare logic boards with chips installed and taped in place. In this case the following shall apply:
 - (a) The boards shall be stored in a secured locked cabinet in the machine maintenance shop. The keys to this cabinet shall be limited and controlled in accordance with procedures approved by the Tribal Gaming Commission.
 - (b) A log shall be maintained which will include but not be limited to the following:
 - (i) Inventory received into storage.
 - (ii) Type of board, i.e. manufacturer, game, etc.
 - (iii) Date issued out of storage.
 - (iv) Quantity issued, name and employee number of issuer.
 - (v) Reason for issue and name of who the board was issued to.
- (4) Gaming device operations personnel shall under no circumstances be authorized to own or possess any equipment, device or apparatus capable of reproducing, cloning, copying, programming or otherwise producing any programmed storage media (chips or discs) which control any aspect of the operation, play, or payout of any gaming device.
- (5) The Tribal Gaming Commission may possess such equipment as described in Paragraph (4) above in this Section. However, no programmed storage media shall be copied or reproduced without the express written consent of the manufacturer. This will be necessary to avoid the risk of violating any patent or copyright laws.
- (6) Under no circumstances shall any accounting meter(s) on any gaming device ever be cleared without the express consent and authorization of the Tribal Gaming Commission. In the event that the clearing of meters is authorized, it will be done only after written records of the meters made before and after the clearing exercise and a record of explanation for the reason for clearing is made. These records shall be maintained as follows:
 - (a) One copy in the gaming device's maintenance record file.
 - (b) One copy to accounting.
 - (c) One copy to the Tribal Gaming Commission.

VI. PROGRESSIVES

- (1) A meter that shows the amount of the progressive jackpot must be conspicuously displayed at or near the machines to which the jackpot applies. Explanations for meter reading decreases must be maintained with the progressive device's maintenance files and where payment of a jackpot is the explanation of a decrease, the operation shall record the jackpot payout. The operation shall record the base amount of each progressive jackpot that is offered.
- (2) The operation may limit a progressive jackpot to an amount that is equal to or greater than the amount of the jackpot when the limit is imposed. The operation shall post a conspicuous notice of the limit at or near the machines or machines to which the limit applies.
- (3) The operation shall not reduce the amount displayed on a progressive jackpot meter or otherwise reduce or eliminate a progressive jackpot unless:
 - (a) A player wins the jackpot;
 - (b) The Tribe adjusts the progressive jackpot meter to correct a malfunction or to prevent the display of an amount greater than a limit imposed pursuant to subsection (2) above, and the operation documents the adjustment and the reasons for it as follows:
 - (i) The Tribe documents the distribution;
 - (ii) Any machine offering the jackpot to which the operation distributes the incremental amount does not require that more money be played on a single play to win the jackpot than the machine from which the incremental amount is distributed;
 - (iii) Any machine offering the jackpot to which the incremental amount is distributed complies with the minimum theoretical payout requirement as specified in the Technical Standards GCR011.
 - (iv) The distribution is completed within thirty (30) days after the progressive jackpot is removed from play.
 - (c) Upon presentation of exceptional circumstances to the Tribal Gaming agency, and by mutual agreement, the operation may reduce, eliminate, distribute, or follow a procedure not otherwise described in this subsection.
- (4) The operation shall preserve the records required by this Section for five (5) years.
- (5) **OPERATION AS PART OF A NETWORK:** The requirements of this Section shall not be construed to prevent the operation of the electronic games of chance as part of a network within the Tribal gaming facility, or between the gaming facilities on Tribal lands, with an aggregate prize or prizes; provided that an electronic game of chance capable of bi-

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directional communication with external associated equipment must utilize communication protocol which insures that erroneous data or signals will not adversely affect the operation of the game. The operation of the local network must be approved by the independent gaming test laboratory.

- (6) **JACKPOT VERIFICATION:** any jackpot of \$25,000.00 or more in value, whether progressive or not, shall require immediate notification of a Gaming Commission Inspector. This inspector will be involved in the verification of the jackpot pursuant to procedures established by the Commission and prior to paying the winner or resetting the meter.
- (7) No gaming devices operated as part of a network and with potential progressive jackpots of \$100,000.00 or more shall be put into play until special video surveillance requirements are complied with. The Gaming Commission will specify the necessary surveillance requirements on a case by case basis and in accordance with NIGC MICS.

VII. MAINTENANCE AND REPAIRS

- (1) Slot operations shall maintain an individual maintenance history file on each gaming device in the gaming facility. This history file shall be a complete record of every device from procurement to disposal. This file shall include but not be limited to all of the following:
 - (a) Full identity of the machine, i.e.
 - (i) Manufacturer serial number
 - (ii) Tribal I.D. number
 - (iii) Type of game(s)
 - (iv) EPROM I.D.'s
 - (v) Manufacturer name
 - (b) The dates that the device was
 - (i) Procured
 - (ii) Delivered to the Viejas Reservation
 - (iii) Tested and certified and put into play
 - (iv) Taken out of service
 - (c) All completed machine entry authorization logs (meal cards) for that device.
 - (d) Specific records of every maintenance or repair activity conducted on the device which shall include at a minimum:
 - (i) A detailed description of the work performed and/or parts replaced.

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- (ii) Reason for work.
 - (iii) Date and time work was done.
 - (iv) Name and I.D. number of person performing the work.
- (2) Only Tribally licensed, trained and competent employees shall be authorized to access and maintain or repair gaming devices. (exception: authorized manufacturer representatives.)
 - (3) The Slot Operation Department shall establish a routine preventive maintenance program for all gaming devices. Such a program is required to maintain and protect the value of Tribal assets, maximize machine reliability and performance and maximize potential Tribal revenues.
 - (4) It shall be a violation of this regulation for anyone, employee or otherwise to do any of the following without express written authorization from the appropriate regulatory authorities.
 - (a) Make any modification to any hardware or software that has been previously certified by the independent test lab.
 - (b) Install any new parts other than those approved by the independent test lab.
 - (c) Disable, disengage, or otherwise make inoperable any switch, sensor or equipment.

VIII. MACHINE INTERIOR ACCESS

- (1) When accessing the main door of the interior cabinet area of any gaming device for Emergency maintenance or repair the authorized employee must:
 - (a) Have a Security Department employee physically present to witness, or;
 - (b) Notify Surveillance via radio communication prior to opening the cabinet area of the device.
- (2) When accessing the contents of the currency acceptor drop box (at times other than the scheduled count times) shall require the involvement of at least three casino employees from separate departments to sign out the required keys with one employee being a member of management. All other NIGC MICS are to be adhered to.
- (3) When accessing the interior of any device for any reason the person accessing shall:
 - (a) Legibly complete the "MEAL" (machine entry authorization log) card which shall be kept in every device, noting date, time, reason for entry and name and I.D. number of person entering; and
 - (b) If and where possible, insert employee I.D. card into the card reading device on machine prior to opening.

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(4) Drop and pull teams are excepted from Paragraph 3 above in this Section. However, drop and pull teams shall not enter the drop cabinet or bill validators/acceptors unless a security department employee is physically present and surveillance is notified prior to the start of drop and pull activities and at the conclusion of such activities. In addition:

- (a) No more than five (5) juxtaposed machines shall be opened at any one time during a pull or maintenance.
- (b) The security officer/observer shall be positioned on the side of the open door that gives clear view of what the slot repair technician or pull-team member is doing in the machine.

(5) Anytime there is access to the Micro Processor Compartment (logic board) to remove or replace game EPROM or RAM chips, or a game logic board on the gaming floor, a Gaming Commission or Surveillance representative shall be notified that access is required, he/she will:

- (a) Obtain tamper-proof tape and keys to logic board compartment from a sure/locked compartment under gaming Commission/Surveillance control.
- (b) Meet at or accompany the repair technician to the machine and remain present for the entire duration of the repair/service.
- (a) Fill out "Machine Logic Board Access Record in accordance with the instructions in Section IX of this GCR (see attached form). Maintain a book of completed access record forms in the Gaming Commission office.

(Note: for wide area progressive machines where malfunctions appear to be attributable to the logic board the machine will have to be shut down until a field representative of the WAP service provider arrives on site. The logic board compartments on WAP machines shall have two independently keyed locks prohibiting access without the presence of both a regulatory representative and a WAP service representative.)

IX. FORM "MACHINE LOGIC BOARD ACCESS RECORD"

(1) Attachment "A" is the form to be used as the "Machine Logic Board Access Record". The numbered items will be filled out as follows:

- (a) Item #1- The date that the logic board is opened.
- (b) Item #2- The time that the logic board is opened.
- (c) Item #3- The unique house identification number of the machine being entered.
- (d) Item #4- The name of the Repair Technician accessing the logic board compartment.
- (e) Item #5- The name of the Gaming Commission/Surveillance representative observing the access to the logic board compartment.

- (f) Item #6- The unique identification number of the EPROM chip that was removed from the logic board.
 - (g) Item #7- The unique identification number of the EPROM chip that is being placed/reinstated on the logic board (even if it is the same chip that was removed).
 - (h) Item #8- A brief description of the problem or reason why the Repair Technician felt it necessary to gain access to the logic board compartment.
 - (i) Item #9- A brief description of the results of the access, i.e. problem fixed, problem not fixed, machine shut down, machine tested O.K. etc.
- (2) Gaming Commission Compliance officers shall maintain a file (book) of all completed logic board access records.

X. REMOVAL/STORAGE OF DEVICES

- (1) No gaming devices or machine shall be removed from the gaming floor without prior notice to and authorization of the Gaming Commission.
- (2) Any gaming devices located or stored in any area other than the gaming floor shall be stored in a locked and secured area and shall either be constantly monitored by Surveillance or, the Gaming Commission shall have sole possession of the keys to the locked storage area.
- (3) No gaming device shall be removed from the Viejas Reservation without express written authorization from the Tribal Gaming Commission and without the appropriate notification of other regulatory and law enforcement agencies.

ATTACHMENT A

Machine Logic Board Access Record

Date: _____ (1) Tech. Name: _____ (4)

Time: _____ (2) Inspector's Name: _____ (5)

Machine#: _____ (3) EPROM Chip# Removed: _____ (6)

EPROM Chip# Reinstalled: _____ (7)

Reason:

(8)

Result:

(9)

VIEJAS TRIBAL GAMING COMMISSION REGULATION
SUBJECT: CASH TRANSACTION REPORTING

I. PURPOSE

The purpose of this regulation is to establish requirements for the Viejas Gaming Facility to ensure compliance with Internal Revenue service reporting requirements and Treasury Department Bank Secrecy Act reporting requirements. (Note: All references to Section 103 refer to Section 31 CFR).

II. REQUIRED REPORTS AND RECORDS

1. IRS form W2-G's or 1099's must be completed for the following Casino Gaming payouts:
 - a) Video tournaments wins of \$600.00 or more.
 - b) Other video Jackpots and/or special wins of \$1,200.00 or more.
 - c) Bingo Jackpots of \$1,200.00 or more.
 - d) Poker Jackpots of \$600.00 or more.
 - e) 21" Jackpots of \$600.00 or more.
 - f) Asian Games Jackpot of \$600.00, or ,more.
2. Separate records (negotiable instruments log) designed by Casino for cashing of any type of checks or money orders of \$3,000.00 or more.
3. Separate records designed by Casino for every extension of credit of \$2,500.00 or more.
4. Casino departmental tracking logs player rating form begin at \$1,000.00 in "21" and Asian Games. Poker cage and "21" cage to log and track any cash transactions of \$3,000.00 or more.
5. Currency Transaction Report; Department of Treasury/IRS form #8362 for cumulative transactions of \$10,000.00 or more in a Casino gaming day.
6. Suspicious activity report, on Treasury Department Form #TD-F 90-22.47 for suspicious transactions.

III. GENERAL

1. Casino Management shall have a separate section of Internal Controls or policies and procedures developed and implemented by August 1, 1996. These Internal Controls shall set forth detailed procedures and necessary forms to ensure full compliance with these Gaming Commission Regulations and the Bank Secrecy Act.
2. Such Internal Controls and all associated transaction records, forms, and documents shall be subject to testing for compliance by Tribal Gaming Commission Personnel and the outside independent auditing firm designated by the Commissioner.
3. The Casino Management shall designate a person as responsible for compliance with these Commission Regulations and the Bank of Secrecy Act. The Casino Management shall keep the Tribal Gaming Commission advised, in writing, at all times the identity of the designated compliance person.
4. Casino Management shall develop and implement a patron tracking system with departmental logs recording any cash-in/cash-out, check cashing transactions, or credit transactions of \$3,000.00 or more or more as applicable. Player rating forms "21" and Asian games start at \$1,000.00.
5. Casino Management will establish and implement a training program for Casino Personnel. Such training shall ensure that personnel are competent in ensuring compliance with these Commission Regulations, applicable Internal Controls, and the Bank Secrecy Act. Such training shall require a written competency test with a passing score of 70% or more, the results of which shall be kept in Casino Personnel files. This training and testing shall be completed by August 1, 1996 for existing employees, and shall be given within 30 days of hire date for employees hired after August 1, 1996. The designated casino compliance person shall keep records of training of all personnel listing names, dates of training, dates of testing, and test scores.
6. It shall be a violation of this regulation to allow any currency for currency transaction of \$2,500.00 or more without recording such transaction on a Multiple Transaction Log (MTL).
7. Examples of suspicious activity or transactions would be:
 - a) Attempting to exchange large sums of small denomination currency for large.
 - b) Buying into a card game for large sums, playing very little and then cashing out.
 - c) Cashing out large sums of credits on a machine without having won a Jackpot.

When such transactions are detected surveillance should be notified and attempts should be made to identify the patron.

IV. CURRENCY TRANSACTION REPORTS (FORM 8362)

1. Each Casino shall file a report of each transaction in currency, involving either cash-in or cash-out, of \$10,000.00, or more.

- a) Transactions in currency involving cash-in include, but not limited to:

- Purchases of chips, tokens, and plaques;
- Front money deposits;
- Safekeeping deposits;
- Payments on any form of credit, including markers and counter checks;
- Bets of currency;
- Currency received by a Casino for transmittal of funds through wire transfer for a customer.
- Purchases of a Casino's check; and
- Exchanges of currency for currency, including foreign currency.

- b) Transactions in currency involving cash-out include, but are not limited to:

- Redemption of chips, tokens, and plaques;
- Front money withdrawals;
- Safekeeping withdrawals;
- Advances on any form of credit, including markers and counter checks;
- Payments on bets, including slot jackpots;
- Payments by a casino to a customer based on receipt of funds through wire transfer for credit to a customer;
- Cashing of checks or other negotiable instruments;
- Exchanges of currency for currency, including foreign currency; and;
- Reimbursements for customer's travel and entertainment expense by the Casino.

- c) Multiple currency transactions shall be treated as a single transaction if the casino has knowledge that they are by or on behalf of any person and result in either cash-in or cash-out totaling more than \$10,000 during any gaming day. For purpose of this paragraph, a casino shall be deemed to have the knowledge described in the preceding sentence, if: any sole proprietor, partner, officer, director, or employee of the casino, acting within the scope of his or her employment, has knowledge that such multiple currency transactions have occurred, including knowledge from examining the books, records, logs, information retained on magnetic disk, tape or other machine-readable media, or in any manual system, and similar documents and information, which the casino maintains pursuant to any law or regulation or within the ordinary course of its business, and which contain information that such multiple currency transaction have occurred.

V. ADDITIONAL RECORDS TO BE MADE AND RETAINED BY CASINOS

1. With respect to each deposit of funds, account opened or line of credit extended after the effective date of these regulations, a casino shall, at the time the funds are deposited, the account is opened, or credit is extended, secure and maintain a record of the name, permanent address, and social security number of the person involved. Where the deposit, account or credit is in the names of two or more persons, the casino shall secure the name, permanent address, and social security number of each person having a financial interest in the deposit, account, or line of credit. The name and address of such person shall be verified by the casino at the time the deposit is made, account opened, or credit extended. The verification shall be made by examination of a document of the type described in 31 CFR §103.28, and the specific identifying information shall be recorded in the manner described in 31 CFR §103.28. In the event that a casino has been unable to secure the required social security number, it shall not be deemed to be in violation of this section if:
 - a) it has made a reasonable effort to secure such number and;
 - b) it maintains a list containing the names and permanent addresses of those persons from whom it has been unable to obtain social security numbers and makes the names and addresses of those persons available to the Secretary upon request.

When a person is a non-resident alien, the casino shall also record the person's passport number or a description of some other government document used to verify his identity.

2. In addition, each casino shall retain either the original or a microfilm or other copy or reproduction of each of the following:
 - a) A record of each receipt (including but not limited to funds of safekeeping or front money) of funds by the casino for the account (credit or deposit) of any person. The record shall include the name, permanent address, and social security number of the person from whom the funds were received, as well as the date and amount of the funds received. If the person from whom the funds were received is a non-resident alien, the person's passport number or a description of some other government document used to verify the person's identity shall be obtained and recorded;
 - b) A record of each bookkeeping entry comprising a debit or credit to a customer's deposit account or credit account with the casino;

- c) Each statement, ledger card, or other record of each deposit account or credit account with the casino, showing each transaction (including deposits, receipts, withdrawals, disbursements, or transfers) in or with respect to, a customer's deposit account or credit account with the casino;
 - d) A record of each extension of credit in excess of \$2,500, the terms and conditions of such extension of credit, and repayments. The record shall include the customer's name, permanent address, social security number, and the date and amount of the transaction (including repayments). If the customer or person for whom the credit extended is alien, his passport number or description of some other government document used to verify his identity shall be obtained and recorded.
 - e) A record of each advice, request or instruction received or given by the casino for itself or another person with respect to a transaction involving a person, account, or place outside the United States (including but not limited to communications by wire, letter, or telephone). If the transfer outside the United States is on behalf of a third party, the record shall include the third party's name, permanent address, social security number, signature, and the date and amount of the transaction. If the person for whom the transaction is being made is a non-resident alien the record shall also include the person's name, his passport number, or a description of some other government document used to verify his identity;
 - f) Records prepared or received by the casino in the ordinary course of business which would be needed to reconstruct a person's deposit account or credit account with the casino or to trace a check deposited with the casino through the casino's records to the bank of deposit;
 - g) All record, documents or manuals required to be maintained by a casino under State and local laws or regulations of any governing Indian Tribe or Tribal Government, or terms of (or any regulations issued under) any Tribal-State Compacts entered into pursuant to the Indian Gaming Regulatory Act, with respect to the casino in question.
 - h) All records which are prepared or used by a casino to monitor a customer's gaming activity.
3. A separate record containing a list of each transaction between the casino and its customers involving the following types of instruments having a face value of \$3,000 or more, and are cashed.

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- a) Personal checks (excluding instruments which evidence credit granted by a casino strictly for gaming, such as markers);
- b) Business checks (including casino checks);
- c) Official bank checks;
- d) Cashier's checks;
- e) Third-party checks;
- f) Promissory notes;
- g) Traveler's checks; and
- h) Money orders.

The list will contain the time, date, and amount of the transaction; the name and permanent address of the customer; the type of instrument; the name of the drawee or issuer of the instrument; all reference numbers (e.g. casino account number, personal check number, etc.) and the name or casino license number of the casino employee who conducted the transaction. Applicable transactions will be placed on the list in the chronological order in which they occur.

4. A copy of the compliance program described in Section III of these Commission Regulations.

- a) Casinos which input, store, or retain, in whole or in part, for any period of time, any record required to be maintained by 31 CFR §103.33 or this section on computer disk, tape, or other machine-readable media shall retain the same on computer disk, tape, or machine-readable media.
- b) All indexes, books, programs, record layouts, manuals, formats, instructions, file descriptions, and similar materials which would enable a person readily to access and review the records that are described in 31 CFR §103.33 and this section and that are input, stored, or retained on computer disk, tape, or other machine-readable media shall be retained for a period of time such records are required to be retained for a period of time such records are required to be retained for five years.

VI. SPECIAL TERMS

1. As used in this part and as applied to casinos the following are definitions to special terms used in these regulations.
 - a) Business year means the annual accounting period, such as a calendar of fiscal year, by which a casino maintains its books and records for purposes of subtitle A of title 26 of the United States Code.
 - b) Casino account number means any and all numbers by which a casino identifies a customer.
 - c) Customer includes every person which is involved in a transaction to which this part applies with a casino, whether or not that person participates, or intends to participate, in the gaming activities offered by that Casino.
 - d) Gaming Day means the normal business day of a casino. For a casino that offers 24 hour gaming, the term means that 24 hour period by which the casino keeps its books and records for business, accounting, and tax purposes. For purposes of the regulations contained in this part, each casino may have only one gaming day, common to all of its division.
 - e) Machine-readable means capable of being read by an automated data processing system.

**VIEJAS TRIBAL GAMING COMMISSION REGULATION
SUBJECT: VISITORS TO CASINO**

I. PURPOSE

The purpose of this regulation is to set forth consistent guidelines and procedures for the control and accountability of persons visiting the casino for personal or business purposes and who will generally be allowed to access all but sensitive areas of the casino.

II. POLICY

It shall be regulatory policy that any visitor, whether on official business or not, who will be allowed access to non-public areas without constant escort from security or management personnel, shall be required to check in with the Security Department and be issued and wear in a prominent location, a visitor's badge.

III. DEFINITIONS

- | | |
|---------------------|---|
| 1. Visitor: | Any person who will be allowed unescorted access to non-public areas whether to conduct official business or not. |
| 2. Non-public area: | Any offices, storage area, kitchen, delivery or any other "back of the house" area where the public is not otherwise allowed unrestricted or unescorted access. |
| 3. Sensitive area: | Vault, count rooms, surveillance room, cashier cages, rooms where gaming equipment or supplies are stored. |
| 4. Escort: | To be in the constant presence of a casino management person, security, or Commission inspector during entire time on casino premises. |

IV. PROCEDURE

1. Any visitor at the casino who requires unescorted access to non-public areas to conduct business of any nature, or to simply visit, tour or meet with management or personnel, shall first check in with the Security Department and be issued a visitor's badge. Such badge shall be worn in plain view at chest level at all times while the visitor is on the casino premises.
2. A member of management or security officer shall escort the visitor to the Security Office. Upon arrival at the Security Office, the officer shall request a piece of identification from the visitor, preferably a photo I.D. such as a driver's license.

3. The officer shall then fill out the visitor's I.D. log book, which shall require at a minimum the following information:
 - a) Date and time the visitor's I.D. badge is issued.
 - b) The I.D. number of the badge.
 - c) The name of officer issuing the badge.
 - d) The name, current address and phone number of visitor receiving the badge.
 - e) Reason or nature of visit or business.
 - f) The date and time badge is returned (this information to be filled in by officer who receives badge when it is returned).
 - g) Name of officer receiving badge when it is returned by visitor (same as "f" above).
4. The officer shall retain the visitor's provided piece of identification until the visitor returns the visitor's badge. When the badge is returned, the officer shall give the visitor back their piece of I.D. initially retained.
5. There are four types of visitor's badges, i.e. "Auditor", "Consultant", "Vendor", and "Visitor". Depending on the nature of the visit, the officers shall use discretion on which badge is appropriate to issue.
6. It shall be the responsibility of every designated officer to review the visitor badge log book at the beginning of each shift to determine and account for what, if any, visitor's badges are outstanding and to monitor their return.
7. No visitor shall be allowed access to "sensitive" areas as defined above without appropriate escorts, as required in existing regulatory and internal control documents.

V. FORMS

1. Attached "A" is a copy of the typical page in the visitor's I.D. log book.
2. Attached "B" is a photo of the four typical types of visitor I.D. badges.

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VIEJAS TRIBAL GAMING COMMISSION REGULATION

SUBJECT: SECURITY AND SAFETY

I. PURPOSE

Pursuant to National Indian Gaming Commission (NIGC) Regulations, the Gaming Facility shall be constructed, operated and maintained in a manner which adequately protects the environment as well as the health and safety of patrons and employees. This regulation shall set forth minimum guidelines to provide for that protection.

II. GENERAL POLICY

The Tribal Gaming Commission shall generally require responsible Casino Departments to produce and maintain detailed policies and procedures for defining and fulfilling their areas of responsibility. The Responsibilities set forth in this regulation are not necessary all inclusive. The Gaming Commissioner retains final authority to determine what safety and security measures are necessary and appropriate.

III. RESPONSIBILITIES BY DEPARTMENT

1. Security Department

- a) Maintain security of master key system of facility as well as control and accountability for all other keys to sensitive and secure areas of the facility. This includes logs, records etc. for the checking out and returning of keys. (Note: The Gaming Commissioner shall approve all employee access plans).
- b) Maintain peace and order in the facility among patrons and employees. Controlling intoxicating, disorderly and disruptive persons, escorting from the premises where necessary.
- c) Maintain vigilance within and without the facility to protect the tribe, patrons and employees from theft, assault or property damage.
- d) Maintain vigilance within and without the facility for safety and health hazards which could cause injury or illness to persons.
- e) Render aid or assistance to any ill or injured patron or employee.
- f) Provide physical security of cash and cash equivalents during drop and count procedures and/or movement of cash from place to place within or without the immediate surroundings of the facility.

- g) Maintenance and security of spare, duplicate or visitor badges. Including logs and accountability.
- h) Accountability and control of lost and found property.
- i) Traffic and crowd control when the volumes are at levels that reasonably require such attention.
- j) Provides for adequate emergency plans for handling such things as building evacuation for fire or bomb threats, robbery response plans, and emergency medical aid.
- k) Assist Tribal Gaming Commission when called upon.

2. Maintenance Department and/or Project Development

- a) Provide the Commission with drawing plans and specs for any proposed new construction and/or remodeling.
- b) Provide the Commission with drawing plans for any existing facility(s) when requested.
- c) Provide the Commission with documentation assessing the impact of existing or new construction on the environment.
- d) Provide the Commission with documentation produced by competent qualified persons reasonably assuring that any facilities adequately ensure the safety of patrons and employees, i.e. meet structural, electrical, plumbing and fire codes.
- e) Primary responsibility for the identification and elimination of safety hazards.
- f) Ensure that there is adequate lighting within and without the facility to ensure safety.
- g) Assist security with master facility key system.
- h) Assist surveillance department when requested to ensure adequate surveillance coverage.
- i) Provide detailed procedures and compliance with the procurement, storage, use and disposal of hazardous materials, i.e. solvents, paints, chemicals, cleaners, etc..
- i) Assist the Gaming Commission in any other areas when called upon.

3. Food and Beverage Department

- a) To generally ensure that Food and Beverage handling practices and equipment reasonably ensure the health and safety of employees and patrons.
- b) Ensure that food preparation and storage equipment maintain specified temperatures to avoid health risks.
- c) Ensure that food handling practices eliminate contamination and health risks. Maintain training records certifying that Food and Beverage workers have been properly trained in health practices and code requirements for food handling.
- d) Ensures that dish and pot washing equipment maintains appropriate temperatures to provide required sanitation and germ kill.
- e) Ensure general cleaning policies and procedures are in place to routinely clean and sanitize all facilities and equipment used in the preparation, serving, display and storage of food and beverages.
- f) Ensure that periodic health inspections are conducted, no less than semi-annually. These inspections shall be conducted by an independent, qualified person or entity certified to conduct such inspections. Records and reports of such inspections shall be maintained by the Food and Beverage Director with copies of such records and reports forwarded to the Gaming Commission after each inspection.

4. Risk Management Department

- a) Conduct frequent inspections of the facility to reduce or eliminate safety hazards.
- b) Have routine inspections conducted regularly by independent qualified inspectors ensuring that no fire, electrical, plumbing, sanitation, hazardous material etc. hazards exist.
- c) Evaluate lighting and signage within and without the facility for adequacy in affording reasonably enhanced safety.
- d) Ensure that adequate insurance is maintained to protect the loss or damage of Tribal assets as well as liabilities for injury or damage to patron's or employee's persons or property.
- e) Process all injury or property damage claims in an efficient and timely fashion.

- f) Maintain records of all above listed inspection, insurance coverage and claims.
- g) Provide the Gaming Commission copies of all above inspection records and reports. Immediately provide copies of all major injury claims and annually provide copies of proof of insurance and dollar limits.

5. Surveillance Department

The personnel, policies and maintenance of the Surveillance Department shall fall under the exclusive jurisdiction of the Tribal Gaming Commission. Generally speaking the Surveillance Department shall provide adequate coverage to reasonably assure the protection of Tribal assets and assist in the safety and security of patrons and employees and their property. Surveillance personnel shall cooperate with and assist Security personnel and Casino management, including authorized cardroom and slot operations personnel, when requested to enhance security and management's ability to fulfill their responsibilities.

VIEJAS TRIBAL GAMING COMMISSION
REGULATIONS
SUBJECT: CONFLICT OF INTEREST, CONDUCT, AND ETHICS
CODE FOR COMMISSION EMPLOYEES

I. PURPOSE

Pursuant to Section 8.3 (a) of the Tribal-State Gaming Compact, the Tribe has adopted a Code of Standards of Business Conduct which demands that the members of the Tribal Gaming Agency at all times, conduct themselves in a manner which is compliant with the highest standards of Honesty, Integrity and Ethical Behavior. Each member is personally responsible to ensure that his or her conduct is free from corruption, compromise, undue influence, conflicts of interest, and any actual or perceived acts of undesirable or unethical conduct. This regulation shall attempt to define conduct or relationships which are deemed unacceptable.

II. GENERAL

This regulation shall apply to members of the Tribal Gaming Commission and members of the Tribe's Independent Gaming Review Board. For the purposes of this regulation, members of the Tribal Gaming Commission shall be defined as the Commissioner, Deputy Commissioner, the Director of Surveillance, all employees of the Commission including but not limited to Background Investigators, Auditors, Compliance Officers, Licensing Specialist, Executive Assistant(s), Clerical or Support Staff, Surveillance Officers, Inspectors, Surveillance Supervisors, Card Graders and any other positions which may be created in the future. Independent Review Board Members shall mean those member described in Sections 3.03-3.07 of the Tribal Gaming Ordinance and any duly appointed alternates.

III. UNACCEPTABLE CONDUCT AND OR RELATIONS

1. Any theft of anything of value from patrons, casino employee(s), co-worker(s), the Tribe, the casino, or convictions of any crime of theft or moral turpitude on/or off of the reservation.
2. Any misuse or abuse of authority by any regulatory agent or representative of the Gaming Commission. Such abuse could include, but not limited, to the following:
 - a) Intimidating or threatening licensees or applicants.

- b) Obtaining special privileges unless specifically authorized by the Tribal Council.
 - c) Any form of harassment of licensees or applicants.
 - d) Accessing locations, data, records without need or as duly authorized as part of appointed job responsibilities.
3. Any willful or negligent damage to Tribal, Casino and/or Commission property.
4. Any physical altercations with any licensee or co-worker, at any time, within the gaming facility(s).
5. After September 1999, no newly employed member of the Tribal Gaming Commission or appointed member of the Review Board shall have an immediate family member as a Viejas Casino licensee or employed by the Tribe in any capacity within the regulatory jurisdiction of the Board or Commission. For the purposes of this regulation, immediate family member shall be defined as spouse or any real, grand-, step-, or in law-, mother, father, son, daughter, brother, sister, or half brother or sister.
- a) In keeping with Tribal policy to promote Tribal employment, where immediate family members as described above are each enrolled or recognized members of the Viejas Band of Kumeyaay Indians, they shall be exempt from this provision.
 - b) Any marriage between a member of the Gaming Commission and a Viejas Casino licensee occurring after employment by the Commission and after September 1999, must be carefully assessed for conflicts of interest and may result in assignments of opposite shifts or areas of responsibilities.
 - c) In the unlikely occasion where two immediate family members may be employed by the Gaming Commission, neither shall hold a position directly reporting to the other.
6. No member of the Board or Commission shall accept any free or discounted gift, gratuity, food, beverage, discount, cash, reward, merchandise, etc. from the Viejas Casino, casino management, or any casino employee or patron except as specifically authorized by the Tribal Council
7. No member of the Board or Commission shall have an interest in any business doing or wishing to do business with the Viejas Casino or Gaming Commission. Such interest shall include, but not be limited to:

- a) Any ownership in the business (excluding when such ownership is less than 10% of the stock of a publicly traded company).
 - b) No other financial interest in the company including that as a lender or borrower.
 - c) No immediate family member shall be employed as a principal of the business or an owner or have a financial interest in the business as described immediately above. Immediate family member is as defined in paragraph 5 of this Section.
8. No member of the Board or Commission shall receive either directly or indirectly any gift, reward, incentive, merchandise, trips, outings, tickets, cash, or anything of value from any business, owner, and/or employee of a business doing or wishing to do business with the Viejas Casino, or the Commission. (Exception: promotional/advertising merchandise or business meal with a value not to exceed \$25.00 per occurrence).
9. No member of the Board or Commission shall receive tips or gratuities from any patron of the casino.
10. No member of the Board or Commission shall have unescorted, unattended access to cash belonging to the casino or Tribe.
11. Members of the Board and Commission shall, at all times, conduct themselves in a highly professional and ethical manner and shall not engage in any of the following:
- a) Utilization of language and/or demonstration of behavior, in public or with licensees, which could be deemed inappropriate, improper, offensive, hazardous or damaging to any person, or property.
 - b) Abusive, disrespectful or gender specific verbal exchanges with casino customers, managers, employees, or co-workers.
 - c) Any act of insubordination to Commission management or supervision.
 - d) Misuse, abuse or waste of Tribal assets.
 - e) Any language or activity which could be construed as offensive to the same or opposite sex, or of a sexual or gender specific nature, or could be construed as sexual harassment and/or creating a threatening, hostile, or offensive working environment.

- f) Any other conduct not listed which would bring embarrassment or disrespect to the Tribe or Commission or otherwise bring the honesty, integrity and respect of the Gaming Commission into question.
- 12. No member of the Board or Commission shall associate, professionally or socially, with any person(s), entity(s), or organization(s) known to have the reputation of criminal or undesirable character, or, in any manner whatsoever maintain any association which would either endanger the integrity or reputation of the Tribe or Gaming Commission, or which could be construed and/or perceived as a conflict of interest.
- 13. Every member of the Board or Commission shall be held to the highest standards of confidentiality. Every member shall sign and comply with a separate confidentiality agreement. No member shall divulge, convey, distribute or disseminate any information, data, records, documents, correspondence or any other information either verbally or otherwise to anyone outside of the Board or Commission regarding the activities of the Commission or Board. Anything that would compromise any investigative activities of the Commission, any disclosures that would violate the privacy of a licensee, or any disclosures or dissemination of background information which violate any intergovernmental agreements are expressly prohibited. Exceptions to this would include sharing information with bonafide regulatory or law enforcement agencies as part of our routine regulatory responsibilities. There will be times when casino management will have a need and right to know investigative findings in various situations. Any information conveyed to management must first be authorized by the Commissioner or Director of Surveillance.
- 14. No member of the Board or Commission shall commit any violation of the Tribal Gaming Ordinance or other Tribal Gaming Regulations.
- 15. No member of the Board or Commission shall engage, either directly or indirectly, in any gambling activity at the Viejas Casino.
- 16. No agent of the Gaming Commission shall engage in any investigative activities, background or otherwise, involving any subject with whom he/she has any blood, marital, professional, or social relationship.
- 17. No member of the Board shall partake in any due process activities which involve any person with whom he/she has a blood, marital, professional, or social relationship.

IV. VIOLATIONS AND DISCIPLINE

Members of the Board and Commission shall always be held to the highest standards of professional and personal conduct. They are expected to set the example for honesty, integrity, professionalism, and ethical behavior, which is beyond reproach. Any violations of the aforementioned provisions bring discredit to the Commission and compromise our reputation for integrity. Violations of any of the standards set forth in this regulation shall result in disciplinary action up to and including immediate removal or termination.

**VIEJAS TRIBAL GAMING COMMISSION
REGULATIONS
SUBJECT: LICENSING AND SUITABILITY OF LABOR
ORGANIZATIONS (UNIONS) AND LEADERSHIP**

I. PURPOSE

The Indian Gaming Regulatory Act (IGRA) 25 U.S.C. § 2702 establishes a congressional declaration of policy regarding Indian gaming. It states in part that the purpose of IGRA is "... to provide a statutory basis for the regulation of gaming by an Indian Tribe adequate to shield it from organized crime and other corrupting influences, and to ensure that the Indian Tribe is the primary beneficiary of the gaming operation.....".

Similar language is also found in the preamble of the Compact between the Viejas Tribe and State of California. In addition Section 1.0 of that Compact which sets forth the Compact's purposes and objectives states in part that the intent of the Compact is to "... promote ethical practices in conjunction with that gaming, through the licensing and control of persons and entities employed in, or providing... Services to, the Tribe's gaming operation and protecting against the presence or participation of persons whose criminal backgrounds, reputations, character, or associations make them unsuitable for participation in gaming, thereby maintaining a high level of integrity in Tribal Governmental gaming".

In keeping with these policies and objectives, the purpose of this regulation is to set forth a process whereby any Union, collective bargaining unit, association or other organization representing any groups or segments of employees of the Viejas Tribal gaming operation, and any leaders, officers, directors, etc of any such organizations described above, shall fall under the jurisdiction of the Viejas Tribal Gaming Commission for the purpose of licensing and suitability determinations.

II. GENERAL

1. It is a known historical fact that some labor organizations and their principals (later defined) have been members of or had associations with organized criminal entities. Such associations, if allowed to exist in connection with Indian gaming would be extremely detrimental to the integrity of Tribal Governmental gaming. Such associations would pose a genuine risk to the fundamental operational abilities of a Tribal gaming operation, and its assets. In keeping with the policies described in Section I of this regulation, it is believed that it is in the best interest of the Tribe that any labor organization affiliated with or representing employees of the Viejas gaming operation be subjected to the scrutiny of the Tribe's Governmental Regulatory agency to determine that any such organization is free from association or corrupting influence of any criminal or undesirable elements.
2. As a recognized sovereign government, the Viejas Tribe has enacted a Tribal Gaming Ordinance (law). This Ordinance establishes the Tribal Gaming Commission as its Governmental Gaming Regulatory Agency. Section 3.10 of said Ordinance authorizes the Commission to promulgate regulations as it deems appropriate to effect the code and to issue licenses.

3. The Tribal Gaming Commission has deemed it appropriate to promulgate this regulation for the purposes set forth above. In addition this regulation shall set forth a fair and impartial process for licensing and suitability determinations for any labor organizations and their principles associated with Viejas gaming facility employees.
4. Pursuant to Section 10.7 of the Tribal-State Compact the Tribe is required to adopt a Tribal Labor Relations Ordinance (TLRO). On September 30, 1999, the Viejas Tribal Government adopted a TLRO with language prescribed by the State of California. Section 8 (a) of that Ordinance states in part "the Tribe may require the Union and Union organizers to be subject to the same licensing rules applied to individuals or entities with similar levels of access to the casino or related facility, provided that such licensing shall not be unreasonable, discriminatory, or designed to impede access."
5. The validity of any labor contract or agreement between any union representing Viejas casino employees and the Viejas Tribe shall be contingent upon said Union subjecting itself to the licensing process set forth herein these regulations administered by the Viejas Gaming Commission, and thereby obtaining said license and maintaining such license in good standing in accordance with these regulations.

III. DEFINITIONS

1. Union: any organization, association, group, etc. Established for the purposes of collectively unifying any group, class, or segment of Viejas casino employees and representing them to Viejas casino management or governmental officials in the negotiation, bargaining, or grieving for wages, working conditions, benefits or any other conditional agreements between the Tribe/casino and effected employees. This shall include the principals of any such organization.
2. Principals: any officer, director, or other person in a leadership capacity whether elected, appointed or employed. This shall include but not be limited to presidents, vice presidents, secretaries, treasurers, sergeants of arms, controllers, directors or any other leadership positions created or established by charter, articles of incorporation, by-laws, etc. of the organization. These principles may be subject to licensing at any level of the organization deemed appropriate or necessary by the Gaming Commission. Such levels may include but not limited to locals, regional, state, national or however else the organization is formally structured.
3. License: a certificate issued to the organization by the Tribal Gaming Commission after background investigations and suitability determinations have been made on the organization and its principals. Such license shall be subject to biennial review and renewal. The initial license application fee shall be one thousand, five hundred dollars (\$1,500.00). Renewal fees shall be seven hundred fifty dollars (\$750.00). Continued license eligibility will be contingent upon compliance with any applicable Federal, State and Tribal laws and regulations and continued evaluation of suitability of the organization and its principals.

4. Suitability:

A) Suitability of the organization (Union) for licensing will be determined by:

- i. Ensuring that no funds, dues or other revenues of the Union, at any level, have been given, loaned or otherwise conveyed directly or indirectly to any person or entity associated with organized crime or otherwise having undesirable reputation, habits or associations.
- ii. That the principals of the organization do not have criminal history records or other elements of unsuitability as further articulated in Paragraph B below.

B) Suitability of principals shall be determined by the following criteria:

- i. Consistent with the eligibility of casino employee for licensing, no principal shall have an existing conviction for any felony as described in the jurisdiction where the conviction took place.
- ii. Is a person of good character, honesty, and integrity.
- iii. Is a person whose background, reputation and associations will not result in adverse publicity for the Tribal gaming operation; and
- iv. Whether the applicant knowingly and intentionally provided false statements or information or omitted information on the application.
- v. Whether the prior activities, criminal record, reputation, habits, and associations indicate that the person may be a threat to the public interest or to the effective regulation and control of gaming.
- vi. Whether the applicant has violated, failed, or refused to comply with the provisions, requirements, conditions, limitations, or duties imposed by any provision of Federal or State law or the Ordinance.
- vii. Whether the applicant knowingly caused, aided, abetted, or conspired with another to cause any person or entity to violate any of the laws of any State, the provisions of a Compact, or the Tribal Ordinance.
- viii. Whether the applicant has ever obtained a license by fraud, misrepresentation, concealment, or through inadvertence or mistake.
- ix. Whether the applicant has ever been convicted of, or forfeited bond upon a charge of, or plead guilty to, forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payment or reports to any Tribal, State, or U.S. Government Agency at any level, or filed false reports therewith, or of any similar offense(s), or of bribing or otherwise unlawfully influencing a public official or employee of a

Tribe, a State, or the U.S Government, or of any felony or misdemeanor involving any gaming activity, physical harm to individuals or moral turpitude.

- x. Whether the applicant is subject to current prosecution or pending charges, or a conviction under appeal for any of the offenses listed above. Upon request of the applicant, the Tribal Gaming Office may defer decision on the application pending the results of such prosecution or appeal.
- xi. Whether the applicant has ever had a gaming license issued by any State, Tribe, or foreign gaming regulatory agency revoked or denied.
- xii. Whether the applicant has demonstrated a willful disregard for compliance with a regulatory authority in any jurisdiction including suspension, revocation, and denial of application or forfeiture of license.
- xiii. Whether the applicant has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the laws of any state, if such pursuit creates probable cause to believe that the participation of such person in Union or related activities would be detrimental to the proper operation of authorized gaming or related activity. Occupational manner shall be defined as the systematic planning, administration, management or execution of an activity for financial gain.
- xiv. Whether the applicant is a career offender or a member of a career offender organization or an associate of a career offender or career offender organization in such a manner which creates probable cause to believe that the association is of such a nature as to be detrimental to the proper operation of the Union or related activities. Career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purposes of economic gain utilizing such methods as are defined criminal violations of Federal or Tribal laws or the public policy of any State. A career offender organization shall be defined as any group of persons who operate together as career offenders.
- xv. Whether the applicant has failed to provide any information requested by the Tribal Gaming Office within 14 days of the request for the information.
- xvi. Made a misrepresentation of, or fails to disclose a material fact to the Tribal Gaming Office or any State Gaming Agency.
- xvii. Whether public disclosure of the reputation, habits or associations of the applicant would bring discredit or embarrassment to the Tribe or cast doubt or suspicion upon the Tribe's integrity or reputation.

IV. LICENSING APPLICATION

1. For the purposes of this regulation a Union shall apply in the same manner as a business or vendor would apply for licensing.
2. Applications/questionnaires utilized in this process are of two different configurations.
 - A) One application is to be filled out applicable to the organization (business).
 - B) One application is to be filled out by each principal. This questionnaire pertains to the personal history of each principal.
3. Principal applications will be accompanied by two passport sized photos of each principal. Also, the Commission may require two complete sets of fingerprints on cards supplied by the Commission.
4. All applications shall be notarized in the designated locations.
5. Each applicant shall also sign and have notarized an information release waiver, as supplied by the Commission.

V. PROCEDURE- APPLICATION PROCESSING

1. Upon receipt of a completed application package and appropriate non-refundable application fee, a designated Commission agent shall initiate the following activity(s).
 - A) Review the application for completeness and content.
 - B) After review, and preliminary investigative inquiries, provided that there is no disqualifying information disclosed on the face of the application, a temporary license may be issued in letter form. This temporary license shall remain in effect until a complete and thorough background investigation is complete at which time a permanent license will either be issued or denied.
 - C) The agent will then continue with a detailed and thorough background investigation of the organization and its principals.
2. In order to appropriately assess the suitability of the Union (business), Commission agents may require access to any books, records, documents, accounts, etc. of the organization for review. Authorization for such access shall be obtained by signature of the authorized union official completing the "business" portion of the application package.

VI. PROCEDURE-BACKGROUND INVESTIGATION

1. The Tribal Gaming Commissioner or designee shall have responsibility for conducting or causing to be conducted background investigations and for making eligibility determinations. Such background investigations shall include as a minimum:
 - A) Written or oral verification of information provided by applicant on application form.
 - B) An inquiry into the applicant's prior activities, reputation, habits, and associations.
 - C) Interviews with a sufficient number of knowledgeable people such as former employers, personal references, and others to whom referred, to assist in the eligibility determination.
 - D) Documentation of any potential problem areas noted and all disqualifying information obtained.
 - E) Processing fingerprints if requested.
 - F) Civil, criminal, and credit history inquiries as deemed necessary or appropriate.
2. The Commissioner or designee shall prepare an investigation report. This report shall include, but not be limited to:
 - A) The steps taken in conducting the background investigation.
 - B) The results obtained.
 - C) The conclusions reached.
3. The Commissioner shall be responsible for reviewing and approving all investigative work.
4. The Commissioner shall make the decision regarding licensing eligibility.
5. The Tribal Gaming Commission retains the right to conduct any further or additional background investigation that it deems appropriate, either before or after the issuance of a license.

VII. DUE PROCESS- DENYING, SUSPENDING, REVOKING OR LICENSE

1. The Tribal Gaming Office may suspend, revoke, or deny the license of any applicant, or entity, upon the occurrence of any of the following:
 - A) The Tribal Gaming Office receives verified and/or reliable information from any source regarding a licensee's ineligibility in accordance with Section III 4 of this procedure.
 - B) The Tribal Gaming Office has probable cause to believe that the licensee has, by act or omission, violated provisions of Federal or State law or Tribal Ordinance which may endanger or interfere with the operation of the gaming facility, or Union.
 - C) The Tribal Gaming Office has reason to believe that the continued licensing of a person or Union constitutes an immediate threat to the health, safety, or welfare, of its employees, both physical and economical.
 - D) The Tribal Gaming Office learns that the licensee has violated any Federal, State, or Tribal laws, or gaming regulations.
 - E) The Tribal Gaming Office has reason to believe that the licensee is involved in any theft, misappropriation, misuse or abuse of Union funds, revenues, dues, etc. obtained from Viejas casino employees.
 - F) The licensee engages in any conduct which brings discredit or embarrassment to the casino or Tribe, or interferes with the normal operation of the casino.
 - G) The licensee falsifies, misrepresents, or fails to disclose any required information on any Tribal gaming license application.
 - H) The licensee fails to respond to a regulatory request from the Tribal Gaming Commission within fourteen (14) days of the date of the initial request.
2. Any denial, suspension, or revocation licensing action pursuant to Paragraph 1 above shall require:
 - A) Written, certified, return receipt requested, or personally hand served notification of the suspension and/or pending revocation be given to the licensee thirty (30) days in advance of the proposed action.

- B) Such written notification shall advise of the licensee's right to a hearing and shall specify the date, time and place for the hearing such notice shall also advise of the licensee's right to representation and production of witnesses or evidence at such hearings.
 - C) Such notification shall advise of the licensee that failure to appear for a scheduled hearing shall forfeit any further right to appeal.
 - D) Any licensing hearings shall be conducted before the Tribe's Independent Gaming Review Board as established pursuant to 3.03-3.05 of the Tribal Gaming Ordinance.
3. After the appropriate hearings the Gaming Review Board may rule for permanent revocation or denial of a license. Such a ruling should be based on the licensee's failure to satisfy eligibility requirement as specified in Section III 4 of this regulation or for any causes described in Section VII 1 of this Regulation.
4. If, after the appropriate hearings and due process, the Independent Gaming Review Board rules to uphold a license denial or revocation action of the Gaming Commission, or rules in favor of the applicant or licensee the applicant, the applicant or licensee shall be notified of the ruling by certified, return receipt requested mail within ten (10) calendar days of conclusion of the hearing unless otherwise agreed to by the involved parties. The rulings of the Independent Gaming Review Board shall be final and not subject to further appeal.

VIEJAS TRIBAL GAMING COMMISSION
REGULATIONS

SUBJECT: TECHNICAL SPECIFICATIONS FOR
GAMING DEVICES

I. PURPOSE

- (1) The purpose of this Tribal Regulation is to set forth standardized technical specifications for gaming devices authorized for play in the gaming facility(s) within the jurisdiction of the Viejas Tribal Government. Any manufacturer, distributor, or supplier of gaming devices must fully comply with all provisions of this regulation, prior to putting any of their devices in play at any Viejas gaming facility.
- (2) In addition, the following are further purposeful reasons for the regulation:
 - a) To eliminate subjective criteria in analyzing and certifying gaming device operation.
 - b) To only test those criteria that impact the credibility and integrity of gaming device gaming from both the Revenue Collection and Player's point of view.
 - c) To create a standard that will ensure that gaming devices in casinos are fair, secure, and able to be audited and operate correctly.
 - d) To distinguish between local public policy and laboratory criteria.

II. GENERAL

- (1) **Testing:** Every gaming device (Class II or Class III), for use in this jurisdiction, shall be tested and certified by an independent test lab. Both hardware and software shall be certified by the lab to comply with the standards set forth in this document or any other directive of the Viejas Gaming Commission. At this time "Gaming Laboratories International, Inc." (GLI) is approved for use in this jurisdiction as an independent test lab. Manufacturers, suppliers or distributors of gaming devices shall comply with all submission requirements specified by the test lab, in order to meet testing and certification requirements. For the purposes of this Section, "Gaming Devices" shall also include bill acceptors, which will require lab testing and approval.

The balance of this regulation focuses on specifications for Class III gaming devices. The testing requirements of any Class II gaming device will be determined by the Tribal Gaming Commission on a case-by-case basis.

- (2) **Modifications:** Every modification (hardware or software) of any previously certified gaming device must be submitted for testing and certification by the independent test lab, prior to authorization for installation or use in this jurisdiction.
- (3) **Costs:** The manufacturer, distributor, or supplier of gaming devices shall be fully responsible for all costs incurred due to independent lab testing, field testing, or any forensic testing or evaluation deemed necessary by the Tribal Gaming Commission.
- (4) **Testing Result Reports:** At the conclusion of each test, the laboratory shall provide to the Tribal Gaming Commission and, if necessary, to the State Gaming Agency, a certified affidavit that contains findings, conclusions and a determination that the gaming device and related equipment conforms or fails to conform to the technical requirements and standards set forth in this regulation. If modifications can be made, which would bring the gaming device or related equipment into compliance, the report may contain recommendations for such modifications.

III. DEFINITIONS

- (1) "Base Amount" means the amount of the progressive jackpot initially offered before it increases.
- (2) "Credit" means the smallest unit of value that may be used to play a game on a gaming device or that may be redeemed in currency.
- (3) "Error condition" is a programmed error state for a gaming device. An error condition occurs when the device detects an internal error, malfunction, or attempted cheating, and it disallows further play until the error is resolved.
- (4) "Gaming Device" means a slot machine, including an electronic, electromechanical, electrical, or video device that, for consideration, permits: individual play with or against that device or the participation in any electronic, electromechanical, electrical, or video system to which that device is connected; the playing of games thereon or therewith, including, but not limited to, the playing of facsimiles of games of chance or skill; the possible delivery of, or entitlement by the player to, a prize or something of value as a result of the application of an element of chance; and a method for viewing the outcome, prize won, and other information regarding the playing of games thereon or therewith.
- (5) "Local Area Progressive" (LAP) means one or more Class III gaming devices linked together that offer common progressive jackpot(s), which are linked to a progressive controller within a single casino location.
- (6) "On-line Data System" means a computerized system performing accounting and data collection, including meter readings, credits-played, credits paid, credits redeemed, currency in by denominations, games played and won, and record the date and time of each access to main door and bill validator. The Central Computer may validate and maintain redemption ticket or validate jackpots, coin out, hopper fills, and drop data for each day, provide system-generated reports for accounting/auditing and management, record error conditions, and provide immediate notification of security breaches of Class III gaming devices. These data are accumulated daily to perform accounting and auditing functions. This system shall also track, monitor, record and analyze comparisons between theoretical and actual hold percentages. This system may also track and record individual player activity for the purposes of accumulating points for redemption rewards.
- (7) "Progressive Gaming Device" means a gaming device that has an increasing jackpot based on a function of credits that are bet. This includes games that award progressive jackpots or a 'pool' based on criteria other than obtaining winning symbols on the machine, such as 'Mystery Jackpot.' This does not include games that incorporate a bonus feature as part of the game theme that offer awards, which increase as the game is played and is not configurable."
- (8) "Progressive Jackpot" means a gaming device payoff that increases incrementally automatically over time, or as the gaming device or another link to it is played until the jackpot is won, at which time the jackpot is reset to its "base amount."

- (9) "Random Access Memory" (RAM) is the electronic component used for computer workspace and storage of volatile information in a gaming device. The term does not include memory that is used exclusively for bitmapped video displays.
- (10) "Random Number Generator" is a hardware, software, or combination hardware and software device for generating number values that exhibit characteristics of randomness.
- (11) "Read Only Memory" (ROM) is the electronic component used for storage of non-volatile information in a gaming device. The term includes all ROM devices, which cannot be altered while inside the Gaming Device.
- (12) "Stand-Alone Progressive Gaming Device" means a single progressive game that is not a part of a link.
- (13) "Wide Area Progressive Gaming Devices (WAP)" are progressive gaming devices interconnected in more than one (1) casino. The purpose of a wide area progressive system is to offer common progressive jackpot(s) (system jackpot) at all participating locations.

IV. GAMING DEVICE REQUIREMENTS-HARDWARE

- (1) **Physical Security:** A gaming device shall be robust enough to withstand forced illegal entry unless such entry causes a tilt code or visual evidence of tampering.
- (2) **Gaming Device And Player Safety:** Electrical and mechanical parts and design principals of the electronic games of chance may not subject a player to any physical hazards. The Gaming Test laboratory shall NOT make any finding with regard to Safety and EMC testing as that is the responsibility of the manufacturer of the goods or those that purchase the goods. Such Safety and EMC testing may be required under separate statute, regulation, law or Act and should be researched accordingly by those parties who manufacture or purchase said devices. The Gaming Test Laboratory shall not test for, be liable for, nor make a finding relating to these matters.
- (3) **Environmental Effects on Game Integrity:** The Laboratory will perform certain tests to determine whether or not outside influences affect game fairness to the player or create cheating opportunities. A gaming device shall be able to withstand the following tests, resuming game play without operator intervention:
 - (a) **Random Number Generator.** The random number generator and random selection process shall be impervious to influences from outside the device, including, but not limited to, electro-magnetic interference, electro-static interference, and radio frequency interference.
 - (b) **Electro-magnetic Interference.** Gaming devices shall not create electronic noise that affect the integrity or fairness of neighboring gaming devices or associated equipment.
 - (c) **Electro-static Interference.** Protection against static discharges requires that the gaming device's conductive cabinets be earthed in such a way that static discharge energy shall not damage or inhibit the normal operation of the electronics or other components within the gaming device. Gaming devices may exhibit temporary disruption when subjected to a significant electro-static discharge greater than human body discharge, but they shall exhibit a capacity to recover and complete any interrupted play, without loss or corruption of any control or data information associated with the gaming device. The tests will be conducted with a severity level of up to 27KV air discharge.
 - (d) **Radio Frequency Interference (RFI).** Gaming devices shall not divert from normal operation by the application of RFI at a frequency range from twenty-seven (27) to one thousand (1000) MHZ with a field strength of three (3) volts per meter.

NOTE: This rule may be waived where the mode of communication of the part being tested is via radio frequency transmission.

- (e) Magnetic Interference. Gaming devices shall not be adversely affected by Magnetic Interference. The manufacturer should supply any documentation if the device has had Magnetic Interference testing against any recognized standard.
 - (f) Liquid Spills. Liquid spills applied to the outside of a gaming device shall not affect the normal operation of the gaming device, affect the integrity of the material or information stored inside the cabinet, and shall not affect the safety of the players operating the equipment. If liquids are spilled into a coin acceptor or bill acceptor, the only degradation permitted is for the acceptor to reject all inputs or generate an error condition.
- (4) **Other Hardware Requirements**: Each gaming device shall meet the following hardware requirements:
- (a) Microprocessor Controlled. Be controlled by one (1) or more microprocessors or the equivalent in such a manner that the game outcome is completely controlled by the microprocessor and not determined by any mechanical or electro-mechanical device. It should be noted that this does not exclude display mechanisms that display the game outcome.
 - (b) On/Off Switch. An On/Off switch that controls the electrical current shall be located in a place which is readily accessible within the interior of the gaming device so that power can not be disconnected from outside of the gaming device using the on/off switch. The on/off positions of the switch shall be labeled.
 - (c) Temperature and Humidity. Gaming devices can be expected to operate in a variety of extreme environments. In the event that the designed operational parameters of a gaming device are exceeded the gaming device, if incapable of continued proper operation, shall perform an orderly shutdown without loss of game status, accounting and security event data. The manufacturer should supply any documentation if the device has had Temperature and Humidity testing against any recognized standard.
 - (d) Player Warning Display. The face of the cabinet shall display in plain view of the player a warning advising that "any gaming device malfunction voids all plays and pays."
- (5) **Cabinet Wiring**: The gaming device shall be designed so that power and data cables into and out of the gaming device can be routed so that they are not accessible to the general public. This is for game integrity reasons only, not for health and safety. Security-related wires and cables that are routed into a logic area shall not be able to be easily removed.
- (6) **Gaming Device Identification**: A gaming device shall have a not-easily removable, without leaving evidence of tampering, identification badge permanently affixed to the exterior of the cabinet by the manufacturer, and this badge shall include the following information:
- (a) The manufacturer;
 - (b) A unique serial number;

- (c) The gaming device model number; and
 - (d) The date of manufacture.
- (7) **Tower Light:** The gaming device shall have a light located conspicuously on top of the gaming device that automatically illuminates when a player has won an amount or is redeeming credits that the gaming device cannot automatically pay; an error condition has occurred (including 'Door Opens'); or a 'Call Attendant' condition has been initiated by the player. This requirement may be substituted for an audible alarm for gaming device such as the 'bar-top' style.
- (8) **Manipulation of Power Supply:** The gaming device shall not be adversely affected by surges or dips of $\pm 20\%$ of the supply voltage.
- NOTE: It is acceptable for the equipment to reset provided no damage to the equipment or loss or corruption of data is experienced in the field.
- (9) **Diverter and Drop Box Requirements:**
- (a) **Diverter.** For games that accept coins or tokens, the software shall ensure that the diverter directs coins to the hopper, or to the drop box when the hopper is full. The hopper-full detector shall be monitored to determine whether a change in diverter status is required. If the state of the detector changes, the diverter shall operate as soon as possible, or within ten (10) games, after the state change, without causing a disruption of coin flow, or creating a coin jam. Hopper-less gaming devices shall always divert coins to the drop box.
 - (b) **Drop Box.** If the game is equipped to accept token(s) or coin(s), then the following rules shall be met:
 - (i) Each gaming device equipped to accept token(s) or coin(s) shall contain a separate slot drop bucket or slot drop box to collect and retain all such slot coins that are diverted into the drop box.
 - (ii) A slot drop bucket shall be housed in a locked compartment separate from any other compartment of the gaming device.
 - (iii) There must be a method to monitor the drop box area, even if manufactured by a different company.
 - (iv) The drop box compartment shall be locked and independently keyed, and shall have a sensor switch which communicates with an on-line data system to indicate date and time and "door open" and "door closed" messages.
- (10) **External Doors/Compartments Requirements:**

- (a) The interior of the device should not be accessible when all doors are closed and locked.
- (b) Doors shall be manufactured of materials that are suitable for allowing only legitimate access to the inside of the cabinet (i.e. doors and their associated hinges shall be capable of withstanding determined illegal efforts to gain access to the inside of the gaming device and shall leave evidence of tampering if an illegal entry is made).
- (c) The seal between the cabinet and the door of a locked area shall be designed to resist the entry of objects.
- (d) There shall be a light on the top of the device that is clearly visible which automatically illuminates when the door to the gaming device or doors to any devices connected to the gaming devices which may affect the operation of the gaming device, are opened. This requirement may be substituted for an audible alarm or a common candle for machines such as the 'bar-top' style.
- (e) Bar-Top Game Exception. All bar-top gaming devices shall have a light alarm or an audio door alarm installed. The alarm shall be designed to activate when the inside of the gaming device is accessed, with power on.
- (f) All external doors shall be monitored by door access sensors, which shall detect and report all door openings, both to the gaming device by the way of a tilt and to an on-line data system.

NOTE: The drop box door open does not have to cease game play; however, it must still illuminate the tower light or alarm and notify the on-line data system.

- (g) It shall not be possible to insert a device into the gaming device that will disable a door open sensor when the gaming device's door is shut, without leaving evidence of tampering.
 - (h) RESERVED.
 - (i) The sensor system shall register a door as being open when the door is moved from its fully-closed and locked position.
 - (j) Locks for these doors shall be durable, tamper-proof, and independently keyed, differently than the locks for coin, currency, or logic board access.
- (11) **The Logic Door and Logic Area:**
- (a) The logic area is a locked cabinet area (with its own locked and independently keyed door) that houses electronic components that have the potential to significantly influence the operation of the gaming device. There may be more than one (1) such logic area in a gaming device.

- (b) Electronic component items that are required to be housed in one (1) or more logic areas are:
 - (i) CPUs and other electronic components involved in the operation and calculation of game play (e.g. game controller electronics and components housing the game or system firmware program storage media);
 - (ii) Electronics involved in the operation and calculation of game result determination;
 - (iii) Electronics involved in the calculation of game display and components housing display program storage media (passive display equipment exempted);
 - (iv) Communication controller electronics, and components housing the communication program storage media or, the communication board for the on-line system may reside outside the gaming device;
 - (v) Interfaces and drivers for metering systems; and
 - (vi) All flash memory devices that affect the game play function of the gaming device.
 - (vii) All program media which controls payouts, pay tables, percentages, and allowable denominations for play.
 - (c) Communication, I/O and display interfaces that do not significantly influence the gaming device's behavior may be excluded from a logic area; consideration will be given on a case-by-case basis.
 - (i) RESERVED.
 - (ii) RESERVED.
- (12) **Coin and Currency Compartments:**
- (a) The coin and currency compartments shall be locked separately from the main cabinet area, except that a separate cash compartment shall not be required for coins necessary to pay prizes in a gaming device, which pays prizes through a drop hopper.
 - (b) Access to currency storage area is to be secured via separate key locks and shall be fitted with sensors that indicate door open/close or stacker removed.
 - (c) Access to the currency storage area is to be through two (2) levels of locks (the relevant outer door plus one other door or lock) before the receptacle or currency can be removed.

- (d) Currency receptacle contents must be secured with a separate, independently keyed lock, different from the currency receptacle release lock.

(13) **Program Memory, RAM And Non-Volatile Devices Used To Store Program Memory:**

- (a) **Non-Volatile RAM Requirements.** The following are the requirements for RAM:
 - (i) A battery back-up, or an equivalent, shall be installed on the game for the electronic meters and shall be capable of maintaining the accuracy of all information required for thirty (30) days after power is discontinued from the gaming device. The back-up device shall be kept within the locked Logic Area.
 - (ii) If the battery back-up is used as an 'off chip' battery source, it shall re-charge itself to its full potential in a maximum of twenty-four (24) hours. The shelf life shall be at least five (5) years.
 - (iii) Random access memory that uses an off-chip back-up power source to retain its contents when the mains power is switched off shall have a detection system, which will provide a method for software to interpret and act upon a Low Battery condition.
 - (iv) Clearing non-volatile memory shall only be able to be undertaken by accessing the logic area in which it is housed and shall only be done with the specific approval of the local regulatory agents.
- (b) **Function of RAM Reset.** Following the initiation of a RAM reset procedure (utilizing a certified RAM Clear method), the game program shall execute a routine, which initializes each and every bit in RAM to the default state. For games that allow for partial RAM clears, the methodology in doing so must be accurate and the game must validate the un-cleared portions of RAM.
- (c) **Default Reel Position or Game Display.** The default reel position or game display after a RAM reset shall not be the top award on any selectable line. The default game display, upon entering game play mode, shall also not be the top award. This applies to the base game only and not any secondary bonus devices.
- (d) **Configuration Setting.** It shall not be possible to change a configuration setting that causes an obstruction to the electronic accounting meters without a RAM clear, see also, Section IV rule (13)(a)(iv). Notwithstanding, a change to the denomination must be done by a secure means, which includes access to the locked logic area. The monitoring of denomination changes will assist in preventing bill validator fraud.
- (e) **Requirements For Program Storage Devices.** All program storage devices, including ROMS, EPROMS, FLASH ROMS, DVD, CD-ROM, and any other type of program storage device shall be clearly marked with sufficient information to identify the software and revision level of the information stored in the devices.

Any program storage media, which controls the play of the game or payouts, must be capable of being field-tested and validated by regulatory officials with relative ease and convenience. Such testing shall allow regulators to identify and validate program contents by the display of a predetermined code or signature unique to that program and compatible with available field-testing devices.

- (14) **Contents of Critical Memory:** Critical memory is used to store all data that is considered vital to the continued operation of the gaming device. This includes, but is not limited to:
- (a) all electronic meters required within this document, including the last bill data and power up and door open metering;
 - (b) current credits;
 - (c) gaming device/game configuration data;
 - (d) information pertaining to the last five (5) plays with the RNG outcome (including the current game if incomplete); and
 - (e) software state (the last normal state the gaming device software was in before interruption).
- (15) **Maintenance of Critical Memory:**
- (a) Critical memory storage shall be maintained by a methodology that enables errors to be identified and corrected in most circumstances. This methodology may involve signatures, checksums, partial checksums, multiple copies, timestamps and/or effective use of validity codes.
 - (b) Comprehensive checks of critical memory shall be made during each gaming device restart (e.g. power up cycle). Gaming device control programs (software that operates the gaming device's functions) shall test for possible corruption caused by failure of the program storage media and all critical game functions. Test methodology shall detect 99.99 percent of all possible failures.
 - (c) The control program (software that operates the gaming device's functions) shall allow for the electronic gaming device to ensure the integrity of all control program components during execution of said components.
 - (d) All PSDs (program storage devices) in the executable address space of a main processor shall be validated during the following conditions:
 - (i) any power up; and
 - (ii) the first time the files are loaded for use (even if only partially loaded).

- (e) RAM and PSD space that is not critical to gaming device security (e.g. video or sound ROM) are not required to be validated.
- (16) **Unrecoverable Critical Memory:** An uncorrectable corruption of RAM shall result in a RAM error. The RAM should not be cleared automatically, but shall require a full RAM clear performed by an authorized person.
- (17) **Write Once Read Many (WORM) Program Storage:**
- (a) A WORM used as a program storage device shall only contain the program files that operate the game.
 - (b) The control program shall utilize an integrity check, preferably a secured hashing method such as MD5 or SHA (please contact the test laboratory for further information), to authenticate that the program and/or support files have not been corrupted or altered prior to use/loading.
 - (c) RESERVED
 - (d) In the case of a CD-ROM, a re-writeable disk may not be used.
 - (e) In the case of a CD-ROM, "the Session" shall be closed to prevent any further writing.
 - (f) Write Protection. In the case of a hard disk, a write-protected drive shall be used. SCSI Devices are preferred as they provide a write protect jumper which can be sealed. Any other type drive will be required to have the write line cut and verified in the field or any other means of write protection will be examined on a case by case basis.
 - (g) Alternate Storage Medium. The program residing in the gaming device shall be contained in a storage medium, which cannot be altered through use of the circuitry or programming of the gaming device itself. If the program is contained in any other medium, the following rules shall be met:
 - (i) The gaming device shall authenticate all critical game files including, but not limited to, executables, data, and operating system files and other files that may affect the game outcome or operation, which reside on the medium. This authentication shall employ a hashing algorithm which produces a 'Message Digest' (the mathematical results/signature of the hashing algorithm) output of at least 128 bits (this value will constantly be re-evaluated, based on technology advancements and new security methods available) at minimum as certified by the test laboratory and agreed upon by the jurisdiction.
 - (ii) The Message Digest(s) for all files as defined in (a) shall reside on a memory device within the gaming device. Message Digests which reside on any other media shall be encrypted using a public/private key algorithm with a minimum of a 512 bit key (this value will constantly be re-evaluated, based on technology

advancements and new security methods available) or an equivalent encryption algorithm with similar security certified by the test laboratory and agreed upon by the jurisdiction.

- (iii) The gaming device shall authenticate all critical files** against the stored Message Digest(s). This authentication shall meet the requirements of 15(d) of this document.

** critical files are those files which affect game play, operation, or outcome.

- (iv) In the event of a failed authentication, after the game has been powered up, the gaming device should immediately enter an error condition with the appropriate tower light signal and record the details, including time and date of the tilt in a log. This tilt shall require operator intervention. The game shall display specific tilt information and shall not clear until either the file authenticates properly, following the operator intervention, or the medium is replaced or corrected, and the device's memory is cleared, the game is restarted, and all files authenticate correctly.
- (v) The device shall be capable of displaying the 'Message Digest' of any and all files on demand through audit mode.

- (18) **Flash Memory Devices:** Flash memory devices that contain the control program are allowed as long as the ability to 're-write' or 'flash' the device, while installed in the logic board, is physically disabled (i.e. write line cut on the logic board). Each use of flash memory devices will be assessed.

Note: Use of any hardware switch on the write line will be reviewed on a case-by-case basis. Also, flash memory devices must be capable of field testing by regulatory officials.

- (19) **Multi-Station Games:** A multi-station game is a gaming device that incorporates more than one (1) player terminal, and only has one (1) random number generator, which is controlled by the master terminal. The master terminal, containing the games CPU, will house the game display, which is shared among the player terminals. Each station must meet the technical standards outlined throughout this document, including gaming device identification and metering.

NOTE: There must be a method for each player to know when the next game will begin.

- (20) **Printed Circuit Board (PCB)-Identification:**

- (a) Each printed circuit board (PCB) shall be identifiable by some sort of name (or number) and revision level.
- (b) The top assembly revision level of the PCB shall be identifiable (if track cuts and/or patch wires are added to the PCB, then a new revision number or level shall be assigned to the assembly).

- (c) Manufacturers shall ensure that circuit board assemblies, used in their gaming devices, conform functionally with the documentation and the certified versions of those PCBs that were evaluated and certified by the test laboratory.
- (21) **Patch Wires:** All patch wires and track cuts shall be documented, in an appropriate manner, in the relevant service manual and/or service bulletin and shall be submitted to the test laboratory. This does not prohibit required repairs in the field.
- (22) **Switches and Jumpers:** If the game contains 'Switches and Jumpers,' the following rules shall be met:
- (a) All switches or jumpers shall be fully documented for evaluation by the test laboratory.
 - (b) No hardware switches may be installed on a gaming device or on any associated equipment, which may alter the paytables, game denomination or payout percentages in the operation of the gaming device. This includes top award changes (including progressives), selectable Blackjack settings, or any other option that would affect the payout percentage whether or not that percentage is within legal limits.
 - (c) Hardware switches may be installed to control aspects of the gaming device that do not affect the game function, game play, game outcome, or the game's payout percentage, denomination changes, or rates of progression on progressive jackpot devices.
- (23) **Mechanical Devices Used for Displaying of Game Outcomes:** If the game has mechanical or electro-mechanical devices which are used for displaying game outcomes, the following rules shall be observed:
- (a) Electro-mechanically controlled display devices (e.g. reels or wheels) shall have a sufficiently closed loop of control so as to enable the software to detect a malfunction, or an attempt to interfere with the correct operation of that device. This requirement is designed to ensure that if a reel or wheel is not in the position it is supposed to be in, an error condition will be generated;
 - (b) Mechanical assemblies (e.g. reels or wheels) shall have some mechanism that ensures the correct mounting of reels' artwork, if applicable;
 - (c) Displays shall be constructed in such away that winning symbol combinations match up with pay lines or other indicators; and
 - (d) A mechanical assembly shall be so designed that it is not obstructed by any other components.
- (24) **Video Monitors/Touch Screens:** All video games shall meet the following rules:
- (a) Touch screens (if applicable) shall be accurate and, once calibrated, shall maintain that accuracy for at least the manufacturer's recommended maintenance period.

- (b) A touch screen (if applicable) should be able to be re-calibrated by venue staff, without access to the gaming device cabinet other than opening the main door.
 - (c) There shall be no hidden or undocumented buttons/touch points (if applicable) anywhere on the screen except as provided for by the game rules that affect game play.
- (25) **RESERVED**
- (26) **Coin or Token and Bill Acceptors and Other Methods of Inserting Value into the Gaming Device.**
- (a) **Coin or Token Acceptors.** If the gaming device uses a coin acceptor, the acceptor shall accept or reject a coin on the basis of metal composition, mass, composite makeup, or equivalent security. In addition, it shall meet the following rules:
 - (i) **Coin Acceptor Security Features/Error Conditions.** The coin acceptor shall be designed to prevent the use of cheating methods such as slugging (counterfeit coins), stringing (coin pullback), the insertion of foreign objects and other manipulation.
 - (ii) **Rapidly Fed Coins.** The gaming device shall be capable of handling rapidly fed coins or piggy backed coins so that occurrences of cheating are eliminated.
 - (iii) **Direction Detectors.** The electronic gaming devices shall have suitable detectors for determining the direction and speed of coin travel in the receiver. If a coin traveling at too slow of a speed or improper direction is detected, the gaming device shall enter an error condition and display an error condition and display an error condition for at least thirty (30) seconds or be cleared by an attendant.
 - (iv) **Invalid Coins.** Coins deemed invalid by the acceptor shall be rejected to the coin tray and shall not be counted as credits.
 - (v) **Coin Acceptance Conditions.** Acceptance of coins for crediting to the credit meter shall only be possible when the gaming device is enabled for play. Other states such as error conditions, including door opens, audit mode, and game play shall cause the disabling of the coin acceptor system.
 - (vi) **Credit Meter Update on Coin Insertion.** Each coin inserted shall register the actual monetary value or a number of credits on the player's credit meter or bet meter. If registered directly as credits, the conversion rate shall be clearly stated or be easily ascertainable from the gaming device.

NOTE: The error conditions within the above section shall also comply with the 'error conditions' requirements of this document unless otherwise noted.

- (b) Bill Acceptors. All acceptance devices shall be able to detect the entry of valid bills, coupons, paper tokens, or other approved notes, if applicable, and provide a method to enable the gaming device software to interpret and act appropriately upon a valid or invalid input. The acceptance device(s) shall be electronically-based and be configured to ensure that they only accept valid bills of legal tender. Bill acceptors may also accept coupons, paper tokens, or other approved notes and reject all others in a highly accurate manner. The bill-input system shall be constructed in a manner that protects against vandalism, abuse, or fraudulent activity. In addition, bill acceptance device(s) shall meet the following rules for all acceptable types of medium:
 - (i) Reserved;
 - (ii) Credits. Credits shall only be registered when:
 - (A) the bill has passed the point where it is accepted and stacked; and
 - (B) the acceptor has sent the "irrevocably stacked" message to the gaming device.
 - (c) Communications. All bill acceptors shall communicate to the gaming device using a bi-directional protocol.
 - (d) Factory Set Bill Acceptors. If bill acceptors are designed to be factory set only, it shall not be possible to access or conduct maintenance or adjustments to those bill acceptors in the field, other than:
 - (i) the selection of bills, coupons, paper tokens, or other approved notes and their limits;
 - (ii) changing of certified EPROMs or downloading of certified software;
 - (iii) adjustment of the tolerance level for accepting bills of varying quality should not be allowed externally to the gaming device. Adjustments of the tolerance level should only be allowed with adequate levels of security in place. This can be accomplished through lock and key, physical switch settings, or other accepted methods approved on a case-by-case basis;
 - (iv) maintenance, adjustment, and repair per approved factory procedures; or
 - (v) options that set the direction or orientation of acceptance.
 - (e) Tokenization. For games that allow tokenization, the game shall receive from the bill acceptor and post to the player the entire amount inserted.
- (27) Gaming Device Metering of Bill Acceptor Events.

- (a) Metering. A gaming device, which contains a bill acceptor device, shall maintain sufficient electronic metering to be able to report the following:
 - (i) total monetary value of all items accepted;
 - (ii) total number of all items accepted; and
 - (iii) a break down of the bills accepted:
 - (A) For bills, the game shall report the number of bills accepted for each bill denomination;
 - (B) For all other notes, the game shall have a separate meter that reports the number of notes accepted, not including bills.
 - (b) Bill Acceptor Recall. A gaming device that uses a bill acceptor shall retain in its memory and display the denomination of the last five (5) bills inserted.
- (28) **Bill Acceptor Error Conditions:**
- (a) Each gaming device shall have the capability of detecting and displaying the following bill acceptor error conditions, unless otherwise noted:
 - (i) Stacker full – the bill acceptor should disable itself to accept no more bills. The game should not generate an error message when the stacker is full;
 - (ii) Bill jams – it is acceptable for the bill acceptor to indicate there is a bill jam by disabling itself to accept no more bills or some other method;
 - (iii) Bill Acceptor Door Open - where a bill acceptor door is the belly glass door, a door open signal is sufficient; and
 - (iv) Stacker Door Open.

Note: The error conditions within the above section shall also comply with the 'error conditions' requirements of this document unless otherwise noted.
 - (b) Power Failure During Bill Acceptance/Validation. If a power failure occurs during acceptance, the bill acceptor shall give proper credits for the bill or return the bill to the player, notwithstanding that there may be a small window of time where power may fail and credit may not be given. In this case, the window shall be less than one (1) second.
 - (c) Self Test. The bill acceptor device shall perform a self-test at each power up. In the event of a self-test failure, the bill acceptor shall automatically disable itself (i.e. enter bill reject state) until the error state has been cleared.

- (29) **Bill Acceptor Requirements:** A bill acceptor shall not be adversely affected by the following:
- (a) The bill acceptor shall not be adversely affected by electro-static discharge.
 - (b) The bill acceptor shall not be adversely affected by power surges.
 - (c) The bill acceptor shall not be adversely affected by radio frequency interference *.
 - (d) The bill acceptor shall not be adversely affected by electro-magnetic interference *.
 - (e) The bill acceptor shall not be adversely affected by environmental extremes *.
 - (f) Interconnecting cables from the bill acceptor device to the gaming device shall not be exposed external to the gaming device.
 - (g) If liquids are spilled into a bill acceptor, the only degradation permitted is for the acceptor to reject all bills.
- * The manufacturer should supply any documentation if the bill acceptor has had any of the above tests performed by a recognized standard.
- (30) **Bill Acceptor Stacker Requirements:** Each bill acceptor shall have a secure stacker, and all accepted bills shall be deposited into the secure stacker. The secure stacker is to be attached to the gaming device in such a manner so that it cannot be easily removed by physical force and shall meet the following rules:
- (a) The bill acceptor device shall have a stacker-full sensor.
 - (b) There shall be a separate key to access the stacker area. This key shall be separate from the main door. In addition, a separate key shall be required to remove the bills from the stacker.
 - (c) A Tower Light or Alarm shall be activated whenever there is access to the bill door or the stacker has been removed.
- (31) **Hoppers, Ticket Printers and Other Methods of Receiving Value from the Gaming Device:**
- (a) **Credit Redemption.** Available credits may be collected from the gaming device by the player pressing the "COLLECT" button at any time other than during:
 - (i) a game being played;
 - (ii) audit mode;
 - (iii) any door open;
 - (iv) test mode;

- (v) a Credit Meter or Win Meter incrementation, unless the entire amount is placed on the meters when the collect button is pressed;
 - (vi) an error condition; or
 - (vii) a payout of twelve hundred dollars (\$1,200.00) or more for a single play.
- (b) Cancel Credit. If credits are collected, and the total credit value is greater than or equal to a specific limit (e.g. Hopper Limit for hopper games or Printer Limit for printer games), the game shall lock up until the credits have been paid, and the handpay is cleared by an attendant.
- (c) Hoppers & Hopper Error Conditions. There shall be under no circumstances an abnormal payout from the hopper (if one exists) when the hopper is exposed to higher levels of electro-static discharge or if power is lost at any time during a payout. The hopper shall be interfaced in such a way as to allow the gaming device control program to monitor the hopper mechanism, in all game states, to identify at least the following events and shall meet the Error Conditions rules within this document:
- (i) extra coin paid out; and
 - (ii) hopper jam or empty.

Note: The hopper shall be resistant to manipulation by the insertion of a light source or any foreign object.

(32) **Printers:**

- (a) Payment By Ticket Printers. If the gaming device has a printer that is used to make payments, the gaming device may pay the player by issuing a printed ticket. If the taxation limit is reached on any single play when using a ticket printer, then the ticket must not be able to be redeemed at any place other than through human interaction (not on another machine or at a self-serve kiosk). The printer shall print on a ticket and provide the data to an on-line data system that records the following information regarding each payout ticket printed. The information listed below can be obtained from the gaming device, interface board, the on-line data management system or another means:
- (i) value of credits in local monetary units in numerical form;
 - (ii) time of day the ticket was printed in twenty-four (24) hour format showing hours and minutes;
 - (iii) date, in any recognized format, indicating the day, month and year;

- (iv) gaming device number or machine number; and
- (v) unique validation number, or bar code.

Note: To meet this standard, the gaming device shall either keep a duplicate copy or print only one (1) copy to the player but have the ability to retain the last thirty-five (35) ticket information to resolve player disputes. In addition, an approved system shall be used to validate the payout ticket and the ticket information on the central system shall be retained at least as long as the ticket is valid at that location.

- (b) Printer Location. If a gaming device is equipped with a printer, it shall be located in a locked area of the gaming device (e.g. require opening of the main door to access) but not in the logic area or the drop box. This requirement ensures that changing the paper does not require access to the drop (cash) or logic areas.
- (c) Error Conditions. A printer shall have mechanisms to allow software to interpret and act upon the following conditions:
 - (i) out of paper/paper low;
 - (ii) printer jam/failure; and
 - (iii) printer disconnected – this may only be detected when the software tries to print.

Note: These conditions shall trigger an error condition to indicate the error has occurred.

- (33) Ticket Validation: Payment by ticket printer as a method of credit redemption is only permissible where the gaming device is linked to a Computerized System, which allows validation of the printed ticket. Validation approval or information shall come from the central system in order to validate tickets. Tickets may be validated at any location as long as it meets the standards in this section. Provisions must be made if communication is lost and validation information can not be sent to the central system, thereby requiring the manufacturer to have an alternate method of payment. The validation system must be able to identify duplicate tickets to prevent fraud by reprinting and redeeming a ticket that was previously issued by the gaming device.

V. SOFTWARE REQUIREMENTS

- (1) **Introduction:** This Section of the document shall set forth the technical requirements for the Rules of Play of the game.
- (2) **Rules of Play:**
 - (a) **Display Requirements:**
 - (i) **Payglass/Video Display.** Payglasses or video displays shall be clearly identified and shall accurately state the rules of the game and the award that will be paid to the player when the player obtains a specific win. The payglasses or video displays shall clearly indicate whether awards are designated in denominational units, currency, or some other unit. The gaming device shall reflect any change in award value, which may occur in the course of play. This may be accomplished with a digital display in a conspicuous location to the gaming device and the game must clearly indicate as such. All payable information should be able to be accessed by a player prior to them committing to a bet. Payglasses or video displays shall not be certified if the information is inaccurate or may cause confusion. The "reasonable player" standard shall be used for evaluation.
 - (ii) **Upcoming Wins.** The game shall not advertise 'upcoming wins' (e.g. three (3) times pay coming soon).
 - (iii) **Fever Mode.** Each game which features a "fever" mode (a mode which gives the player an opportunity for the following 'X' number of hands to achieve a certain winning combination with the pay-off being some number of bonus credits) should include the number of hands remaining for the "fever" mode pay-off during each game that fever mode is present. The same shall apply to free games awarded as a result of a previous event.
 - (iv) **Multiple Decks of Cards.** Any games which utilize multiple decks of cards should alert the player as to the number of card decks in play.
 - (b) **Information To Be Displayed.** A gaming device shall display, or shall be displayed on the glass, the following information to the player at all times the machine is available for player input:
 - (i) the player's current credit balance;
 - (ii) the current bet amount (this is only during the base game or if the player can add to the bet during the game);
 - (iii) all possible winning outcomes (or be available as a menu item or help menu);

- (iv) win amounts for each possible winning outcome (or be available as a menu or help screen item);
 - (v) the amount won for the last completed game (until the next game starts or betting options are modified); and
 - (vi) the player options selected (e.g. bet amount, lines played) for the last completed game (until the next game starts or a new selection is made).
- (c) Multi-Line Games:
 - (i) Each individual line to be played shall be clearly indicated by the gaming device so that the player is in no doubt as to which lines are being bet on.
 - (ii) The winning playline(s) shall be clearly discernable to the player (e.g. A video game may be accomplished by drawing a line over the symbols on the playline(s) and/or flashing of winning symbols and line selection box. Where there are wins on multiple lines, each winning playline may be indicated in turn).
- (d) Game Cycle. A game is considered completed when the final transfer to the player's credit meter takes place (in case of a win) or when all credits wagered or won that have not been transferred to the credit meter are lost. The following are all considered to be part of a single game:
 - (i) games that trigger a free game feature and any subsequent free games;
 - (ii) "second screen" bonus feature(s);
 - (iii) games with player choice (e.g. Draw Poker or Blackjack);
 - (iv) games where the rules permit wagering of additional credits (e.g. Blackjack Insurance or the second part of a two-part Keno game); and
 - (v) Double-up/Gamble features.
- (3) Game Selection Process and RNG, Minimum Payout Percentages, Odds and Non-Cash Awards.
 - (a) Game Selection Process.
 - (i) All Combinations and Outcomes Shall Be Available. Each possible permutation or combination of game elements which produce winning or losing game outcomes shall be available for random selection at the initiation of each play, unless otherwise denoted by the game.

- (ii) No Near Miss. After selection of the game outcome, the gaming device shall not make a variable secondary decision, which affects the result shown to the player. For instance, the random number generator chooses an outcome that the game will be a loser. The game shall not substitute a particular type of loser to show to the player. This would eliminate the possibility of simulating a 'Near Miss' scenario where the odds of the top award symbol landing on the payline are limited, but frequently appear above or below the payline.
 - (iii) No Corruption from Associated Equipment. A gaming device shall use appropriate communication protocols to protect the random number generator and random selection process from influence by associated equipment, which may be communicating with the gaming device.
- (b) Random Number Generator Requirements. The use of an RNG results in the selection of game symbols or production of game outcomes. The selection shall:
 - (i) be statistically independent;
 - (ii) conform to the desired random distribution;
 - (iii) pass various recognized statistical tests; and
 - (iv) be unpredictable.
- (c) Applied Tests. The test laboratory may employ the use of various recognized tests to determine whether or not the random values produced by the random number generator pass the desired confidence level of 95%. These tests may include, but are not limited to:
 - (i) chi-square test;
 - (ii) equi-distribution (frequency) test;
 - (iii) gap test;
 - (iv) overlaps test;
 - (v) poker test;
 - (vi) coupon collector's test;
 - (vii) permutation test;
 - (viii) Kolmogorov-Smirnov test;
 - (ix) adjacency criterion tests;

- (x) order statistic test;
 - (xi) runs tests (Patterns of occurrences should not be recurrent);
 - (xii) interplay correlation test;
 - (xiii) serial correlation test potency and degree of serial correlation (outcomes should be independent of the previous game); and
 - (xiv) tests on subsequences.
- (d) Background RNG Activity Requirement The RNG shall be cycled continuously in the background between games and during game play at a speed that cannot be timed by the player. The test laboratory recognizes that some time during the game, the RNG may not be cycled when interrupts may be suspended. The test laboratory may recognize this but shall find that this exception shall be kept to a minimum.
- (e) RNG Seeding The first seed shall be randomly determined by an uncontrolled event. After every game, there shall be a random change in the RNG process (new seed, random timer, delay, etc.). This will verify the RNG does not start at the same value, every time. It is permissible not to use a random seed; however, the manufacturer must ensure that games will not synchronize.
- (f) Live Game Correlation Unless otherwise denoted on the payglass, where the gaming device plays a game that is recognizable such as Poker, Blackjack, Roulette, etc., the same probabilities associated with the live game shall be evident in the simulated game. For example, the odds of getting any particular number in roulette where there is a single zero (0) and a double zero (00) on the wheel, shall be one (1) in thirty-eight (38); the odds of drawing a specific card or cards in poker shall be the same as in the live game. For other gaming devices (such as spinning reel games or video spinning reel games), the mathematical probability of a symbol appearing in a position in any game outcome shall be constant.
- (g) Card Games The consequences for games depicting cards being drawn from a deck are the following:
- (i) At the start of each game/hand, it is recommended that the first hand of cards shall be drawn fairly from a randomly shuffled deck (the replacement cards are not drawn until needed).
 - (ii) Cards, once removed from the deck, shall not be returned to the deck except as provided by the rules of the game depicted.
 - (iii) As cards are removed from the deck they shall be immediately used as directed by the rules of the game (i.e. the cards are not to be discarded due to adaptive behavior by the gaming device).

- (h) Ball Drawing Games. The consequences for games depicting balls being drawn from a barrel (e.g. Keno) are as follows:
 - (i) At the start of each game only balls applicable to the game are to be depicted. For games with bonus features and additional balls that are selected, they should be chosen from the original selection without duplicating an already chosen ball.
 - (ii) The barrel shall not be re-mixed except as provided by the rules of the game depicted.
 - (iii) As balls are drawn from the barrel they shall be immediately used as directed by the Rules of the game (i.e. the balls are not to be discarded due to adaptive behavior by the gaming device).
- (i) Scaling Algorithms.
 - (i) If a random number with a range shorter than that provided by the RNG is required for some purpose within the gaming device, the method of re-scaling, (i.e. converting the number to the lower range), is to be designed in such a way that all numbers within the lower range are equally probable.
 - (ii) If a particular random number selected is outside the range of equal distribution of re-scaling values, it is permissible to discard that random number and select the next in sequence for the purpose of re-scaling.
- (j) Percentage Requirements.
 - (i) Software Requirements for Percentage Payout. Each game shall theoretically payout a minimum of eighty percent (80%) and may not exceed one hundred percent (100%) payout during the expected lifetime of the game, including bonus games – see ‘Bonus Games Return’ section.
 - (ii) Optimum Play Used For Skill Games. Gaming devices that may be affected by player skill shall meet the requirement of Section V, when using a method of play that will provide the greatest return to the player over a period of continuous play.
 - (iii) Minimum Percentage Requirement Met At All Times. The minimum percentage requirement shall be met at all times. The minimum percentage requirement shall be met when playing at the lowest end of a non-linear payable (i.e. if a game is continuously played at a minimum bet level for its total game cycle, and the theoretical RTP is lower than the minimum %, then the game is unacceptable). This example also extends to games such as Keno where the continuous playing of any spot combination results in a theoretical RTP lower than the minimum %.

- (iv) Double Up or Gamble. The Double-Up or Gamble options shall have a theoretical return to the player of one hundred percent (100%).
- (k) Progressive Game Calculations. Whenever a progressive handpay is offered as part of the gaming device payout, the base amount (the lowest starting value possible) shall be included in the theoretical payout percentage for purposes of satisfying the minimum percentage requirements. The test laboratory shall provide the base amount in the certification letter as the lowest configuration. This rule shall not supercede the rules in Section V (3) (n) (Merchandise Prizes In Lieu Of Cash Awards), see below.
- (l) Multiple Percentages. For games that offer multiple percentages, please refer to the Configuration Setting requirements in section (13)(d) of this document. For games connected by a network, security measures will be reviewed on a case-by-case basis. Percentage settings shall not be change without the approval of Tribal Regulatory officials.
- (m) Odds - Minimum Probability Standard for Maximum Payout. The highest single advertised payout on each gaming device shall occur, statistically, at least once in twenty-five million (25,000,000) games unless a progressive jackpot, in which case at least once in fifty million (50,000,000) games. This does not apply to multiple awards won together on the same game play where the aggregate prize is not advertised. This odds rule shall not apply to games which make it possible for a player to win the highest win multiple times through the use of free games. This rule does apply to each wager that wins the maximum award.
- (n) Merchandise Prizes In Lieu Of Cash Awards: Payout Percentage. No payout of any merchandise or thing of value shall be included in determining whether a gaming device meets the established minimum payout requirement unless the player is given an option to claim a single, lump sum cash prize. In that case, the aforementioned cash prize will be used to compute the payout percentage.
 - (i) Limitations. Any limitations (annuities -- lump sum or the payment plan) on the prize amount of Merchandise shall be clearly explained to the player on the game that is offering such a prize.
 - (ii) Gaming devices which are linked to offer the same merchandise handpay shall have the same probability of hitting the combination (adjusted for denomination of play and number of credits bet) that will award that handpay.
- (4) Bonus Games. If the game contains a 'bonus feature' (including a game within a game), the following rules shall be met:
 - (a) The game shall display clearly to the player which game rules apply to the current game state.
 - (b) The game, other than those that occur randomly, shall display to the player sufficient information to indicate the current status towards the triggering of the next bonus game

(e.g. if the game requires obtaining several events/symbols towards a feature, the number of events/symbols needed to trigger the bonus shall be indicated along with the number of events/symbols collected at any point).

- (c) The game shall not adjust the likelihood of a bonus occurring, based on the history of prizes obtained in previous games (i.e. games shall not adapt their theoretical return to player based on past payouts).
 - (d) If a game's bonus is triggered after accruing a certain number of events/symbols or combination of events/symbols of a different kind, the probability of obtaining like events/symbols shall not deteriorate as the game progresses (i.e. for identical events/symbols it is not permitted that the last few events/symbols needed are more difficult to obtain than the previous events/symbols of that kind).
 - (e) The game shall make it clear to the player that they are in this mode to avoid the possibility of the player walking away from the gaming device not knowing.
- (5) **RESERVED**
- (6) **Extended Play:** Games that have an award calculated, occurring from game play within the base game's cycle made upon the completion of a series of random occurrences, shall meet the following:
- (a) Extended play awards are part of the game cycle with predetermined award values. Extended play award contributions to the program payout percentage are calculated consistent with awards of the regular game cycle. Specifically, if the cycle for extended play awards is different from the base-game cycle, then the extended play awards occurring within the base game's cycle will be calculated as part of the game's payout.
 - (b) Pursuant to the rules, the game shall display the rules of play for the extended play awards, the rewards associated with each extended play award, and the character combinations that will result in specific payouts. For extended play awards achieved by obtaining specific game results, the progress of the award shall be displayed.
- (7) **Extra Credits Wagered During Bonus Games:** If a bonus or feature game requires extra credits to be wagered and the game accumulates all winnings (from the trigger and the feature) to a temporary "win" meter (rather than directly to the credit meter), the game shall:
- (a) provide a means where winnings on the temporary meter can be bet (via the credit meter) to allow for instances where the player has an insufficient credit meter balance to complete the feature;
 - (b) transfer all credits on the temporary meter to the credit meter upon completion of the feature;
 - (c) not exceed the max bet limit, if one is set; and

- (d) provide the player an opportunity NOT to participate.
- (8) **Bonus Game's Return:** The game's player return over the cycle of both the bonus and non-bonus part of the game shall conform to the minimum theoretical return to player.
- (9) **Multiple Games on Gaming Devices and Game Selection:**
 - (a) RESERVED.
 - (b) The methodology employed by a player to select and discard a particular game for play on a multi-game gaming device shall be clearly explained to the player on the gaming device and be easily followed.
 - (c) The gaming device shall be able to clearly inform the player of all games, their rules and/or the paytables before the player must commit to playing them.
 - (d) The player shall at all times be made aware of which game has been selected for play and is being played, as applicable.
 - (e) The player shall not be forced to play a game just by selecting that game. The player shall be able to return to the main menu.
 - (f) It should not be possible to start a new game before the current play is completed and all relevant meters have been updated (including features, gamble and other options of the game) unless the action to start a new game terminates the current play in an orderly manner.
 - (g) The set of games offered to the player for selection, or the pay table, can be changed only by a secure certified method which includes turning on and off games available for play through a video screen interface and with Tribal Regulatory Control. The rules outlined in 'Configuration Setting' of this document shall govern the RAM clear. Control requirements for these types of selections. However, games that keep the previous payable's (the payable just turned off) data in memory, a RAM clear is not required.
 - (h) No changes to the set of games offered to the player for selection (or to the pay table) are permitted while there are credits on the player's credit meter or while a game is in progress.
- (10) **Electronic Metering Within The Gaming Device:**
 - (a) **Credit Meter Units and Display.** The credit meter shall be maintained in credits or cash value (i.e. applicable local currency).
 - (b) RESERVED.

- (c) Tokenization. If the current local currency amount is not an even multiple of the tokenization factor for a game or the credit amount has a fractional component, the credits displayed for that game may be displayed and played as a truncated amount, (i.e. fractional part removed). However, the fractional credit information shall be made available to the player when the truncated credit balance is zero. The fractional amount is also known as 'Residual Credit' (see Tokenization –Residual Credits section)
- (d) Credit Meter – Incrementing. The value of every prize (at end of game) shall be added to the player's credit meter, except all handpays or merchandise.
- (e) Progressives. Progressives may be added to the credit meter if either:
 - (i) the credit meter is maintained in the local currency amount;
 - (ii) the progressive meter is incremented to whole credit amounts; or
 - (iii) the prize in the local currency amount is converted to credits on transfer to the player's credit meter in a manner that does not mislead the player (i.e. make unqualified statement "wins meter amount" and then rounds down on conversion) or cause accounting imbalances.
- (f) Collect Meter. There shall be the facility for a collect meter which will show the number of credits or cash collected by the player (the number of credits or cash collected shall be subtracted from the player's credit meter and added to the collect meter.)
- (g) Software Meter Information Access. The audit mode shall be accessible by an authorized person.
- (h) Electronic Accounting and Occurrence Meters. Electronic accounting meters shall be at least eight (8) digits in length. If the meter is being used in dollars and cents, at least eight (8) digits must be used for the dollar amount. The meter must roll over to zero upon the next occurrence, any time the meter is higher than eight (8) digits and after 99,999,999 has been reached. If the meter is larger than eight (8) digits, the meter shall roll over at 99,999,999 or any other value that is logical. Occurrence meters shall be at least three (3) digits in length and roll over to zero upon the next occurrence, any time the meter is higher than the maximum number of digits for that meter. The required electronic meters are as follows (accounting meters are designated with an asterisk '*'):
- (i) The coins-in* (OR cash in) meter shall cumulatively count the total amounts wagered during game play, except credits that are won during the game that are subsequently risked in a double up mode.
- (ii) The coins-out* (OR credit out) meter shall cumulatively count all amounts won by the player at the end of the game, that were not paid by an attendant, including amounts paid by a ticket printer. This meter must not increment for bills inserted and cashed out (used as a change machine).

- (iii) The drop* meter shall maintain a cumulative count of the number of coins that have been diverted into a drop bucket and credit value of all bills and tickets/coupons inserted into the bill acceptor for play.

Note: It is acceptable to have separate 'drop' meters for coins, bills tickets and coupons.
 - (iv) The handpays* meter shall reflect the cumulative amounts paid by an attendant for progressive and non-progressive handpays.
 - (v) The games-played meter shall display the cumulative number of games played since the last RAM clear.
 - (vi) A cabinet door meter shall display the number of times the front cabinet door was opened since the last RAM clear.
 - (vii) The drop door meter shall display the number of times the drop door or the bill acceptor door was opened since the last RAM clear.
 - (viii) The cancelled credit* meter shall reflect the cumulative amounts paid by an attendant that are in excess of the credit limit and residual credits that are collected. NOTE: printer games do not require a cancelled credit meter unless, a 'printer limit' option exists on the game.
 - (ix) The progressive occurrence meter shall count the number of times each progressive meter is activated.
- (i) Multi-Game Meters. In addition to the Electronic Accounting Meters required above, each individual game available for play shall have at least "Credits Bet" and "Credits Won" meters in either credits or dollars. Even if a double up or gamble game is lost, the initial win amount/credits bet amount should be recorded in the game specific meters or there may be separate meters that accounts for the double-up or gamble information, see also, Section V(10)(j). Either way, the method of metering must be understood on the screen.
 - (j) Double Up or Gamble Meters. For each type of Double Up or Gamble offered, there shall be two (2) meters to indicate the amount doubled and the amount won, which should increment every time a Double-Up or Gamble occurs. If the gaming device does not supply accounting for the double-up or gamble information, the feature must not be enabled for use.
- (11) Tokenization-Residual Credits: If residual credits exist, the manufacturer may provide a residual credit removal feature or allow a cancel credit or ticket print to remove the residual credits or return the gaming device to normal game play (i.e. leave the residual credits on the player's credit meter for betting).

- (a) Residual credits bet on the residual credit removal play shall be added to the Coins-In (or Cash In) meter.
 - (b) If the residual credit removal play is won, the value of the win shall either:
 - (i) increment the player's credit meter; or
 - (ii) be automatically dispensed, and the value of the coin(s) added to the Coins-Out (or Cash Out) meter.
 - (c) All other appropriate gaming device meters shall be appropriately updated.
 - (d) If the residual credit removal play is lost, all residual credits are to be removed from the credit meter.
 - (e) If the residual credits are cancelled rather than wagered, the gaming device shall update the relevant meters (e.g. cancel credit) and the last play information.
 - (f) The residual credit removal play feature shall return at least eighty percent (80%) to the player.
 - (g) The player's current options and/or choices shall be clearly indicated electronically or by video display. These options shall not be misleading.
 - (h) If the residual credit removal play offers the player a choice to complete the game (e.g. select a hidden card) the player shall be also given the option of exiting the residual credit removal mode and returning to the previous mode.
 - (i) It shall not be possible to confuse the residual credit removal play with any other game feature, (e.g. Double-Up or Gamble.)
 - (j) If the residual credit removal play is offered on a multi-game gaming device, the play shall (for meter purposes of each individual game) either be considered to be a part of the game from which the play was invoked or be treated as a separate game.
 - (k) The Last Game Recall shall either display the residual credit removal play result or contain sufficient information (e.g. updated meters) to derive the result.
- (12) **RESERVED.**
- (13) **Error Conditions:**
- (a) Gaming devices shall be capable of detecting and displaying the following error conditions which illuminates the tower light for each or by sounding an audible alarm. They shall be cleared either by an attendant or upon initiation of a new play sequence:
 - (i) coin-in jam;

- (ii) coin-out jam;
- (iii) hopper empty or timed out;
- (iv) hopper runaway or extra coin paid out (also see section 30.c);
- (v) RAM error;
- (vi) low RAM battery, for batteries external to the RAM itself or low power source;
- (vii) currency-in jam;
- (viii) program error or authentication mismatch;
- (ix) door open (including Bill acceptor);
- (x) reverse coin-in (coin traveling wrong way through acceptor);
- (xi) Reel Spin errors (including a mis-index condition for rotating reels, that affects the outcome of the game):
 - (A) the specific reel number shall be identified in the error code;
 - (B) in the final positioning of the reel, if the position error exceeds one-half of the width of the smallest symbol excluding blanks on the reel strip; and
 - (C) microprocessor controlled reels shall be monitored to detect malfunctions (i.e. a reel which is jammed, or is not spinning freely, or any attempt to manipulate their final resting position).
- (xii.) Power Reset.

Note: This rule also applies to the bill acceptor error conditions within this document.

- (b) Error Condition Description. For games that use error codes, a description of gaming device error codes and their meanings shall be affixed inside the gaming device. This does not apply to video-based games; however, video-based games shall display meaningful text as to the error conditions.

(14) **Program Interruption & Resumption:**

- (a) Interruption. After a program interruption (e.g. power down), the software shall be able to recover to the state it was in, immediately prior to the interruption occurring.

- (b) Restoring Power. If a gaming device is powered down while in an error condition, then upon restoring power, the error message shall be displayed, and the gaming device shall remain locked-up. This is unless power down is used as part of the error reset procedure, or if on power up or door closure, the gaming device checks for the error condition and detects that the error is no longer in existence.
 - (c) Simultaneous Inputs. The program shall not be adversely affected by the simultaneous or sequential activation of the various inputs and outputs, such as 'play buttons,' which might, whether intentionally or not, cause malfunctions or invalid results
 - (d) Resumption. On program resumption, the following procedures shall be performed as a minimum requirement:
 - (i) Any communications to an external device shall not begin until the program resumption routine, including self tests, is completed successfully.
 - (ii) Gaming device control programs shall test themselves for possible corruption due to failure of the program storage media. Use of Cyclic Redundancy Check (CRC) calculations is a minimum (at least 16 bit). Other test methodologies shall be of a certified type.
 - (iii) The integrity of all critical memory shall be checked.
 - (e) Microprocessor controlled reels (e.g. stepper motor reels) shall re-spin automatically to the last valid play-mode result when the play mode is re-entered and the reel positions have been altered (e.g. the main door is closed, power is restored, audit mode is exited, or an error condition cleared).
- (15) **Doors Open/Close:**
- (a) Required Door Metering. The software shall be able to detect and meter access to the following doors or secure areas:
 - (i) all external door(s);
 - (ii) drop box door(s); and
 - (iii) bill acceptor door.
 - (b) Door Open Procedures. When the gaming device's main door is opened the game shall cease play, enter an error condition, display an appropriate error message, disable coin acceptance and bill acceptance, and either sound an alarm or illuminate the tower light or both.

- (c) Door Close Procedures. When the gaming device's main door is closed, the game shall return to its original state and display an appropriate error message, until the next game has ended.
- (16) Taxation Reporting Limits: The game shall be capable of entering a lock-up condition if a single win of twelve hundred (\$1,200.00) or more is credited.
- (17) Test/Diagnostic Mode:
- (a) If in a test mode, any test that incorporates credits entering or leaving the gaming device (e.g. a hopper test) shall be completed on resumption of normal operation. In addition, there shall not be any test mode that increments any of the electronic meters. Any credits on the gaming device that were accrued during the test mode shall be cleared before the test mode is exited. Test meters are permissible provided the meter indicates as such.
 - (b) Entry To Test/Diagnostics Mode. The main cabinet door of the gaming device may automatically place the gaming device in a service or test-mode. Test/diagnostics mode may also be entered, via an appropriate instruction from an attendant, during an audit mode access.
 - (c) Exiting From Test/Diagnostic Mode. When exiting from test mode, the game shall return to the original state that it was in, when the test mode was entered.
 - (d) Test Games. If the device is in a game test mode, the gaming device shall clearly indicate that it is in a test mode, not normal play.
- (18) Last Game Recall:
- (a) Number Of Last Plays Required. Information on at least the last five (5) games is to be always retrievable on the operation of a suitable external key-switch, or another secure method that is not available to the player.
 - (b) Last Play Information Required. Last play information shall provide all information required to fully reconstruct the last five (5) plays. All values shall be displayed, including the initial credits, credits bet, credits won and credits paid. If a progressive was awarded, it is sufficient to indicate the progressive was awarded and not display the value. This information should include the final game outcome including all player choices and bonus features. In addition, the results of Double-Up or Gamble (if applicable).
 - (c) Bonus Rounds. The five (5) game recall shall reflect bonus rounds in their entirety. If a bonus round lasts 'x number of events,' each with separate outcomes, each of the 'x events' shall be displayed with its corresponding outcome, if the outcome results in an award. The recall shall also reflect position-dependent events if the outcome results in an award. For games that may have infinite free games, there shall be a minimum of fifty (50) games recallable.

VI. SLOT TOURNAMENTS

- (1) **Tournament Description:** A slot tournament is an organized event that permits a player to either purchase or be awarded the opportunity to engage in competitive play against other players.
- (2) **Tournament Program:** Each gaming device may be equipped with a certified program that allows for tournament mode play. If tournament is an option, it shall be enabled by a switch key (reset feature) and/or total replacement of the logic board with a certified tournament board.
- (3) **Tournament Hardware:** The game shall comply with the requirements set forth in Section 3 of this document, if applicable.
- (4) **Tournament – Software:**
 - (a) No machine, while enabled for tournament play, shall accept coins or tokens, nor pay out coins or tokens, but shall utilize credit points only. Tournament credits shall have no cash value. These machines shall not increment any mechanical or electro-mechanical meters and all machines in the tournament shall be identical. The percentage requirements as addressed within this document are waived for tournament games.
 - (b) **Gaming device Settings.** All gaming devices used in a single tournament shall utilize the same electronics and gaming device settings, including reel speed settings.

VII. ON-LINE DATA SYSTEMS

- (1) Every Class III gaming device shall be able to communicate with an on-line data system (either a dedicated line or a dial-up system) approved by the Tribal Gaming Commission that provides permanent sequential tracking, which permits monitoring of error conditions on a printed medium for future use, and which records the following information:
- (a) amount deposited in the gaming device through coin collectors and bill acceptors;
 - (b) amount paid out by gaming device;
 - (c) amount of net revenue of the gaming device;
 - (d) time of day in twenty-four (24) hour format showing hours and minutes;
 - (e) date;
 - (f) gaming device serial number;
 - (g) terminal number;
 - (h) RESERVED;
 - (i) whenever the cash (coin drop or bill acceptor) compartment has been opened;
 - (j) whenever the device cabinet has been opened;
 - (k) theoretical vs. actual hold percentage;
 - (l) jackpots hit;
 - (m) hopper jam, runaway, empty, or other malfunction;
 - (n) identity of person accessing gaming device by insertion of an I.D. card in a card reader; and
 - (o) records of player activity including but not limited to:
 - (i) date played;
 - (ii) length of play (time);
 - (iii) dollar amount played;
 - (iv) gaming device number(s) played; and

- (v) number of promotional reward points earned.
- (2) The Tribal gaming facility shall be required to have an on-line data system as defined in Section III (6) of this Regulation. This system shall:
 - (a) Be tested and approved by an independent test lab recognized by the Tribal Gaming Commission.
 - (b) Be connected by dedicated direct line to every Class III gaming Device in the Tribe's gaming facility with the possible exception of those devices which are connected to a wide area progressive data tracking system.

note: This provision may not apply to gaming devices in use at the Tribe's gaming facility prior to March 2000.
 - (c) Be able to communicate with the Tribe's gaming devices and, at a minimum, be able to record the data elements specified in paragraph 1 (a) through (o) of this Section.

VIII. LOCAL AREA AND WIDE AREA PROGRESSIVES

- (1) **Introduction:** Any progressive system shall not affect, supercede, replace or in any way alter the other language provisions of this document. The rules outlined in this section apply to Stand-Alone, Local Area and Wide Area Progressive Gaming Devices.
- (2) **Progressive Hardware Requirements:** This Section shall govern the requirements for all progressive components.
 - (a) **Hardware and Player Safety.** Electrical and mechanical parts and design principals of the electronic associated progressive hardware may not subject a player to any physical hazards. The test laboratory shall NOT make any finding with regard to Safety and EMC testing as that is the responsibility of the manufacturer of the goods or those that purchase the goods. Such Safety and EMC testing may be required under separate statute, regulation, law or Act and should be researched, accordingly, by those parties who manufacture or purchase said hardware. The test laboratory shall not test for, be liable for, nor make a finding relating to these matters.
 - (b) **Environmental Effects on Progressive Integrity.** The progressive equipment shall not be affected by outside influences that affect game fairness to the player or create cheating opportunities. A progressive system shall be able to withstand the tests outlined in Section IV (3) of this document, if applicable.
- (3) **Progressive Meter/Display Requirements:**
 - (a) **Progressive Meter.** One or more progressive gaming device(s) shall be linked, directly or indirectly, to a mechanical, electrical, or electronic device, including the video display, if applicable, that shows the payoff which increments at a set rate of progression as credits are wagered. This device is the Progressive Meter. For games that have progressives such as 'Mystery Jackpot,' the payoff does not have to be displayed to the player, although there should be an indication as to this type of feature on the game.
 - (b) **Progressive Meter Displays.** A progressive meter shall be visible to all players who are playing a device, which may potentially win the progressive amount if the progressive jackpot combination appears, except for 'mystery jackpots.' A player shall know that he is playing a progressive game and not have to play the max bet amount to find out. The above are parameters that are verified on-site prior to implementation. The following rules apply to all Progressive Meter displays:
 - (i) The progressive meter shall display the current total of the progressive jackpot in the monetary value or credits (the monetary value may vary for multi-site progressive displays). Because the polling cycle does cause a delay, the jackpot meter need not precisely show the actual monies in the progressive pool at each instance, see also "Types of Updating Displays" below. This rule does not apply to 'Mystery Jackpots.'

NOTE: Any device that has a feature that doubles, or triples, etc. any win shall have a sign that states the progressive award will not be doubled or tripled if won during the feature, if this is the intention.

- (c) Types of Updating Displays. The use of odometer and other "paced" updating displays are allowed. The progressive meter shall display the winning value within thirty (30) seconds of the jackpot being recognized (for wide area progressives, the jackpot would be recognized by the central system). In the case of the use of paced updating displays, the system jackpot meter shall display the winning value after the jackpot broadcast is received (for wide area progressives, the jackpot broadcast is received from central system). Notwithstanding this rule, if the communication is lost for more than twenty-four (24) hours, the site or link must shut down.
- (d) Progressive Display Digital Limitations. If the progressive meter(s) progresses to its maximum display amount, the meter shall freeze and remain at the maximum value until awarded to a player. This can be avoided by setting the jackpot limit in accordance with the digital limitations of the sign.
- (e) Alternating Displays. If this rule prescribes multiple items of information to be displayed on a gaming device or progressive meter, it is sufficient to have the information displayed in an alternating fashion.
- (f) RESERVED.
- (4) Progressive Controller Requirements:
 - (a) Introduction. Any progressive system shall meet the game standards set forth in this document. The requirements of this Section are intended to apply equally to one (1) progressive gaming device linked to a progressive controller or is internally controlled, as well as several progressive gaming devices linked to one (1) progressive controller within one (1) casino or multiple casinos.
 - (b) Progressive Controller Description. A progressive controller is all of the hardware and software that controls all communications among the devices that calculates the values of the progressives and displays the information within a progressive gaming device link (if applicable – progressive gaming device(s) may be internally controlled) and the associated progressive meter. This equipment includes, but is not limited to, PC-based computers, wiring, and collection nodes, etc.
 - (c) Setting the Jackpot Amounts. The method by which system jackpot parameter values are modified or entered is to be secure. All progressive gaming devices or any approved progressive system component shall display, upon request, the following information for each progressive prize offered (if applicable):
 - (i) CURRENT VALUE: current prize amount;

- (ii) OVERFLOW: amount exceeding limit;
- (iii) HITS: number of times this progressive was won;
- (iv) WINS: total value of wins for this progressive or a history of the last twenty-five (25) progressive hits;
- (v) BASE: starting value;
- (vi) LIMIT: jackpot limit value (if the Jackpot is capped at a maximum limit, this standard does not require to add the overflow amounts to the next starting value and will be determined on a casino-by-casino basis);
- (vii) INCREMENT: percentage increment rate;
- (viii) SECONDARY INCREMENT: percentage increment rate after limit is reached;
- (ix) HIDDEN INCREMENT: percentage increment rate for the reserve pool (the next base amount shall be computed or posted to advise the player of this contribution);
- (x) RESET VALUE: the amount the progressive resets to after the progressive is won; and
- (xi) The participating gaming device(s).

NOTE: Any change to the jackpot amount must conform to the local Internal Control procedures.

- (d) Progressive Controller Program Interruption. After a program interruption (e.g. power down), the software shall be able to recover to the state it was in, immediately prior to the interruption occurring.
- (e) RESERVED.
- (f) Progressive Resumption. On program resumption, the following procedures shall be performed as a minimum requirement:
 - (i) Any communications to an external device shall not begin until the program resumption routine, including self-tests, is completed successfully;
 - (ii) Progressive System control programs shall test themselves for possible corruption due to failure of the program storage media. The authentication may use the checksum; however, it is preferred that the Cyclic Redundancy Check (CRC) calculations are used as a minimum (at least 16 bit). Other test methodologies shall be acceptable if at a comparable level of integrity; and

- (iii) The integrity of all critical memory shall be checked.
- (g) Communications for Signaling of a Jackpot. There shall be a secure, two-way communication protocol between the main game processor board and progressive. In addition, the progressive system shall be able to:
 - (i) send to the electronic gaming device the amount that was won for metering purposes; and
 - (ii) constantly update the progressive display as play on the link is continued.
- (h) Monitoring of Inserted Coins. During the 'Normal Mode' of progressive gaming devices, the progressive controller shall continuously monitor each device on the link for credits bet and shall multiply the same by the rate of progression and denomination in order to determine the correct amounts to apply to the progressive jackpot. This shall be 99.99% accurate.
- (i) Access to the Progressive Controller. Each progressive controller used with a progressive gaming devices shall be housed in a secure environment allowing only authorized accessibility. Access to the controller must conform to the local Internal Control procedures.
- (j) Progressive Controller Required Meters. The progressive controller or other approved progressive system component shall keep the following information in nonvolatile memory, which shall be displayed on demand. Additionally, meters shall be 99.99% accurate:
 - (i) the number of progressive jackpots won on each progressive level if the progressive display has more than one (1) winning amount;
 - (ii) the cumulative amounts paid on each progressive level if the progressive display has more than one (1) winning amount;
 - (iii) the maximum amount of the progressive payout for each level displayed;
 - (iv) the minimum amount of the progressive payout for each level displayed;
 - (v) the rate of progression for each level displayed; and
 - (vi) RESERVED.
- (k) Controller and Display Functions During Progressive Jackpot Win. When a progressive jackpot is recorded on an electronic gaming device which is attached to the progressive controller, the progressive controller shall allow for the following to be displayed on the device and/or progressive display:
 - (i) display of the winning amount;

- (ii) display of the electronic gaming device identification that caused the progressive meter to activate if more than one (1) electronic gaming device is attached to the controller;
 - (iii) the progressive controller shall automatically reset to the reset amount and continue normal play; and
 - (iv) the new progressive values that is current on the link.
- (l) Progressive Jackpot Amount. The initial amount of a progressive jackpot shall begin at or above an award for that particular gaming device that makes the entire meter payout greater than the minimum percentage requirement, see also "Game Selection Process and RNG, minimum payout percentages, odds and Non-Cash Awards," Section V(3).
- (m) Progressive Controller Error Conditions. When a controller error occurs, it is preferred that it alternates the displays, or equivalent, between the current amount and an appropriate error message that is visible to all players, or can alert the casino to the error condition. If the following events occur, the game that is using the progressive is to be disabled, and an error shall be displayed on the progressive meter, other approved progressive system component or gaming device:
- (i) during a 'communication failure,' see also "Communication Failure;"
 - (ii) when there have been multiple communication errors;
 - (iii) when a controller checksum or signature has failure;
 - (iv) when a controllers RAM or PSD (program storage device) mismatch or failure occurs;
 - (v) when the current amount is larger than the limit, see also "Jackpot Limits"
 - (vi) when the jackpot configuration is lost or is not set;
 - (vii) if there has been an unreasonable amount of credits bet (an unreasonable amount of credits bet is defined by the progressive set up which is based on the number of bets and number of machine(s)); or
 - (viii) if the game meters are validated against the controller's meters (via communications between the game board and controller), and they do not reconcile.
- (n) Transferring of Progressive Jackpot. Transferring of progressive jackpots must meet the local Internal Control procedures.

- (o) Jackpot Limits. The controller may be configured with a limit on the jackpot of a progressive gaming device, if the limit imposed is greater than the jackpot payout on the gaming device at the time the limit is imposed. This limit shall be posted or near the device or devices to which the limit applies.
- (p) Time Limits. Progressive controller may have the ability to set time limits that limit the time the progressive is available.

(5) **Progressive Jackpots:**

- (a) Swapping Progressive Levels. For progressives offering multiple levels of awards, the player must always be paid the higher progressive amount, if a particular combination is won that should trigger the higher paying award. This may occur when a winning combination may be evaluated as more than one of the available payable combinations (i.e., a Flush is a form of a Straight Flush and a Straight Flush is a form of a Royal Flush). Therefore, there may be situations where the progressive levels shall be swapped to ensure the player is being awarded the highest possible progressive value, based on all combinations the outcome may be defined as.
- (b) Gaming Device Requirements when any Progressive is Awarded. When a progressive prize has been awarded, the gaming device or other approved progressive component shall perform the following:
 - (i) an appropriate message shall be displayed;
 - (ii) unless the prize is transferred to the player's credit meter, the software and game shall lock-up until the award has been paid by the attendant; and
 - (iii) all progressive related meters must be updated, see also "Electronic Accounting Meters," in Section V.

NOTE: In the case of a player winning a 'Mystery Jackpot', there must be a light or an alarm so the player doesn't abandon the machine, not knowing they've won an award.

- (c) Progressive Gaming Device Metering Requirements. The electronic gaming device is required to update its electronic meters to reflect the winning progressive jackpot amount consistent with these procedures and the electronic accounting meter requirements set forth in this document. Progressive wins may be added to the credit meter if either:
 - (i) the credit meter is maintained in local currency or credits (e.g., dollars and cents, etc);
 - (ii) the progressive meter is incremented to whole credit amounts; or

- (iii) the prize in local currency (e.g., dollars and cents), is converted to credits on transfer to the player's credit meter in a manner that does not mislead the player. The conversion from local currency to credits must always round up.

NOTE: Progressives exceeding the local income tax limit, if one exists, shall require payment by an attendant.

- (d) Changing the Progressive Probability. Once an amount appears on a progressive meter(s), probability of hitting the combination that will award the progressive jackpot shall always remain the same. Probabilities of hitting may only be changed after a jackpot is won and with authorization of the Tribal Regulatory Agency.
- (e) Progressive Awards Paid by Over Time. Any casino licensee or group of casino licensees which offers an award paid over time shall comply with the display and sign requirements or internal control requirements, except that the display or sign need not include the cash equivalent value. In addition, clear and conspicuous notice of the following shall be provided to all players:
 - (i) that the displayed jackpot will be paid over time and not in one lump sum; and
 - (ii) the period of time covering the payments.
- (f) Progressive Percentage Requirements. The progressive percentage requirements shall not supercede the Percentage rules set forth in "Game Selection Process and RNG, minimum payout percentages, odds and Non-Cash Awards" of these Regulations.
- (g) Linked Gaming Device Odds. Each device on the link shall have the same probability of winning the progressive, adjusted for the denomination played. For instance, the probability shall remain the same for multiple denomination games based, on the monetary value of the wager (e.g.1. A two (2) credit \$1 game has the probability of one (1) in 10,000 and a two (2) credit, \$2 game on the same link has the probability one (1) in 20,000.)

IX WIDE AREA PROGRESSIVE REQUIREMENTS

- (1) **Introduction.** In addition to Section VIII, 'Local Area and Wide Area Progressives,' of this document, this Section shall set forth additional requirements for "Wide Area Progressive Gaming Devices."
- (2) **Phases of Approval.** The approval of a "Wide area" system shall be certified in two (2) phases:
 - (a) initial laboratory testing, where the laboratory will test the integrity of the gaming device(s) in conjunction with a progressive system in the laboratory setting with the equipment assembled; and
 - (b) on-site certification where the progressive communications and set up are tested on the casino floor prior to implementation.
- (3) **Wide Area Central Computer Requirements.** Any casino licensee seeking approval to participate in a Wide area progressive slot system shall submit for approval a system of accounting and internal controls, specifying the manner in which participating casino licensees will satisfy the requirements of this document concerning the operation of gaming devices.
 - (a) **Location of Central Monitoring System.** The office containing the central computer shall be equipped with a surveillance system.
 - (b) **Method of Communication for Wide area Gaming Devices.** The method of communication shall be a non-shared, dedicated line or equivalent. Dial-tone systems may used as long as devices at the local site would not be able to be disabled from another outside line or manipulated by any other means. When the method of communication is a shared line, appropriate encryption and security must be in place to avoid corruption or compromise of data.
 - (c) **Data Collection Requirement.** Multi-site systems shall ensure that security information and the amounts wagered information is communicated, at least once every fifteen (15) seconds for terrestrial lines (dedicated phone lines), and a reasonable amount of time for Radio Frequency, from each participating device to the central computer system.
 - (d) **Wide area Encryption Method.** All wide area property systems shall utilize an encryption method that has been approved by the Laboratory. Such encryption method shall include the use of different encryption "keys" or "seeds" so that encryption can be changed in a real-time fashion.
 - (e) **Wide area Monitoring and Other On-line System Requirements.** The on-line provision is to be able to monitor the meter readings and error events of each device regardless of any outside monitoring system. Therefore, the on-line security system requirement when gaming devices are in play is not altered in any way.

- (f) Central Monitoring System Power Supply. The central computer site shall be equipped with non-interruptible power supply that will allow the central computer to conduct an orderly shut down if the power is lost. Should the system utilize hard disk peripherals, the central computer shall be capable of on-line data redundancy.
- (g) Communication Failure. A gaming device shall disable itself and suspend play if communication is lost to the local collection unit and security hub. The gaming device may resume play only when communication to the local hub is restored. If the communication is lost between the local hub and the central computer, the gaming device may continue to play. However, once communications are re-established, the system wide totals are to be updated; notwithstanding this rule if the communication is lost for more than forty-eight (48) hours, the device(s) must be shut down.
- (h) Central Monitoring System Required Reports. Any "Wide area" system shall supply, as requested, the following reports:
 - (i) **PROGRESSIVE SUMMARY:** a report indicating the amount of, and basis for, the current jackpot amount (the amount currently in play);
 - (ii) **AGGREGATE REPORT:** a report indicating the balancing of the system with regard to system wide totals;
 - (iii) **RESERVED;** and
 - (iv) **PAYOFF REPORT:** a report that will clearly demonstrate the method of arriving at the payoff amount. This will include the credits contributed, beginning at the polling cycle, immediately following the previous jackpot, and will include all credits contributed up to and including the polling cycle, which includes the jackpot signal.

NOTE: Credits contributed to the system after the jackpot occurs in real-time, but during the same polling cycle, shall be deemed to have been contributed to the progressive amount prior to the jackpot. Credits contributed to the system, subsequent to the jackpot message being received, as well as credits contributed to the system before the jackpot message is received by the system but registered after the jackpot message is received at the system, will be deemed to have been contributed to the progressive amount of the next jackpot, if applicable.

- (i) Wide area System Meter Readings. All meter reading data shall be obtained in real-time in an on-line, automated fashion. When requested to do so, the system shall return meter readings on all gaming devices attached to the system. The meter readings shall be identical to the meter information retained in the gaming device(s) accounting meters. Manual reading of meter values may not be substituted for these requirements. The meter, in either credit or monetary value, required is 'Credits Bet' which shall be defined as all amounts wagered.

NOTE: The purpose of the above credit-in meter reading is to verify and compare the progressive amount(s) in conjunction with the rate of progression.

- (j) Wide area System Door Monitoring. The multi-site progressive system shall have the ability to monitor entry into the front door of the gaming device and report it to the central system IMMEDIATELY.
 - (k) Jackpot Win During Poll Cycle. If a jackpot is recognized in the middle of a system-wide poll cycle, the overhead display may contain a value less than the aggregated jackpot amount calculated by the central system. The credit values from the remaining portion of the poll cycle will be received by the central system but not the local site, in which case the jackpot amount paid will always be the higher of the two (2) reporting amounts.
 - (l) RESERVED.
 - (m) Multiple Jackpots During the Same Polling Cycle. When multiple jackpots occur, where there is no definitive way of knowing which jackpot occurred first, they will be deemed to have occurred simultaneously; and therefore, the gaming regulator shall adopt procedures for payment of such jackpot occurrences. In addition, if there is a communication failure as described in "Communication Failure" section of this document, a winning player wagering at a non-updated site may also be eligible to a jackpot amount.
- (4) Wide Area Progressive Procedures
- (a) Introduction. Procedures shall be developed, implemented and documented for the following. These reports shall adequately document the procedures, be generated and retained:
 - (i) reconciliation of meters and jackpot payouts;
 - (ii) collection drop of gaming device funds;
 - (iii) jackpot verification and payment procedures that include a requirement that a Commission Agent be present for independent prize verification and payment;
 - (iv) system maintenance;
 - (v) system accuracy;
 - (vi) system security;
 - (vii) system failures including:

- (A) the local hub;
 - (B) the central site;
 - (C) failures in communications; and
 - (D) backup and recovery.
- (b) Typically wide area progressive systems are supplied and administered by third-party providers under various contractual agreements.
- (c) Any contracts for wide area progressives shall be subject to review and approval of the Tribal Gaming Commission, prior to execution by the gaming facility and installation and activation of the system.
- (d) The on-line data and tracking system of the provider of the WAP shall be subject to testing and approval of a qualified testing facility recognized by the Tribal Gaming Commission.
 - (i) This on-line system shall be located in a highly secure area with highly restricted access and under constant surveillance.
 - (ii) The location, security, and integrity of this system shall be subject to inspection by Tribal and/or State Regulatory officials at any time and at the expense of the provider.
- (e) The hardware specifications of gaming devices linked to the WAP, whether owned by the Tribe or the provider, shall:
 - (i) meet or exceed the specifications for devices as set forth in this regulation;
 - (ii) be tested and approved by independent test lab recognized by Tribal Gaming Commission; and
 - (iii) include a second independently keyed lock on the logic board compartments(s) of the Gaming devices linked to the WAP.
 - (A) The keys to the second lock shall remain in the sole possession of the Tribal Gaming Commission.
 - (B) The keys to the first lock on the logic board compartment shall remain in the sole possession of the authorized representative of the WAP provider.
 - (C) Neither the provider nor the Tribe shall be able to access the logic board independently, without the physical presence of the other.

- (f) The provider of the WAP shall be subject to all Tribal Gaming Commission requirements.
- (g) The software of the gaming devices linked to the WAP shall also be tested and approved by a qualified lab recognized by the Tribal Gaming Commission.
- (h) There shall be a large meter conspicuously placed at or near any devices linked to the licensing WAP which continuously displays the progressive jackpot amount available for players of those devices linked to the WAP.
- (i) The amount of a progressive jackpot may not be decreased or reset unless won by a player.
- (j) Tribal regulatory officials must be notified and allowed to take part in the verification of any progressive jackpot won in this Tribal gaming facility.

X TRANSPORTATION AND INSTALLATION

- (1) The Tribal Gaming Commission requires the manufacturer or distributor of gaming devices intended for use in this jurisdiction to certify, in writing, that upon delivery to the Tribe, each gaming device:
 - (a) Conforms precisely to the exact specifications of the gaming device prototype tested and approved by the gaming test laboratory; and
 - (b) Operates and plays in accordance with the technical standards set forth in this regulation.
- (2) Prior to shipping and delivery of a gaming device each manufacturer or distributor shall report in writing to the Tribal Gaming Commission the following information for each electronic gaming device, including, but not limited to:
 - (a) The type of gaming device;
 - (b) The game's serial number;
 - (c) The game's manufacturer;
 - (d) The person from whom the game was acquired; the means by which the game will be transported into the State and the name and street address of any common carrier or other person transporting the game;
 - (e) The certification required under paragraph "1" above;
 - (f) The Erasable Programmable Read Only Memory ("EPROM") chip's identification number;
 - (g) The location to which the game will be delivered, and
 - (h) The date of shipping and anticipated delivery.
- (3) Logic boards with all programmed storage media (chips) installed by the manufacturer may be shipped installed in the gaming device with the initial purchase and transportation of gaming devices. Any subsequent purchases of any upgraded or replacement program storage media (i.e. EPROMS, discs, etc.) which control the play of the game or payouts shall be shipped separately and independently from the gaming device; and be addressed and delivered only to the Tribal Gaming Commission.
- (4) Gaming devices shall be shipped in sealed containers with tamper-proof seals in place. Upon delivery to the Tribe's gaming facility the seal to these containers shall not be broken unless and until a Tribal Regulatory official is present.

**Review Board Resolution No. 00-04
GCR011 Regulation Differences between Revision B and Revision C**

Section IV (11)©(i) Logic Area Access. Removed the 'logic door detection system' rules since the logic area is not required to be monitored.

Section IV(11)©(ii) Logic Area Access. Removed the logic door open sensor rule since the logic are is not required to be monitored.

Section IV(13)(b) RAM clear. The rule was changed to allow for partial RAM clears, as long as the methodology in doing so is accurate and the game validates the un-cleared portions of RAM.

Section IV(13)(d) Configuration Setting. This section was modified to only require a RAM clear, when configuration settings that would cause an obstruction to the accounting meters are altered.

Section IV(26)(b)(i) Bill Acceptor Software Requirements. Removed the requirement that the game display the direction of bills (orientation or with a particular side facing up) since this information is not a technical requirement.

Section IV(28)(a)(i) Bill Acceptor Error Conditions – Stacker Full. This rule was changed to allow for the bill acceptor to disable itself when the stacker is full rather than require the game to generate an error condition.

Section IV(28)(a)(ii) Bill Acceptor Error Conditions – Bill Jam. This rule was changed to allow for the bill acceptor to disable itself or some other method of displaying the error condition.

Section IV(32)(a) Printers. This rule was modified to indicate that any single win, when using printers, shall not allow the ticket to be redeemed at any place other than through human interaction. This will allow monitoring of the taxation requirements for single wins.

Section V(3)(a)(ii) Near Miss. Removed the reference to award symbol ratio occurrence of 9:1 since the rule inhibited one type of technology disproportionately than all the others.

Section V(3)(l) Multiple Percentage. This regulation was modified to reference the 'Configuration Setting' regulation in section IV(13)(d) since changing percentages would obstruct the accounting meters.

Section V(9)(g) Multiple Games. This rule has been changed to refer to the 'Configuration Setting' regulation and not require a RAM clear for games that retain the previous payable (paytable disabled) information.

Section V(10)(h) Electronic Meters. This section was modified to specify that the accounting meters must meet the 8 digit requirement and the occurrence meters must be at least 3 digits. Also, the Accounting meters within this section were designated with an asterisk to distinguish between an accounting meter and occurrence meter.

Section V(10)(h)(iii) Drop Meter. Revised to allow for separate 'drop' meters for coins, bills, tickets and coupons.

Section V(10)(h)(viii) Cancelled Credits. Revised the rule to not require this meter for printer games unless, there is a printer limit option in the game.

Section V(10)(i) Multi-Game Meters. This section was modified to refer to the double up requirements in Section V(10)(j).

Section V(10)(j) Double Up or Gamble Meters. This section was modified to require the double up option to be disabled in the event the game can not account for the double up information.

Section V(17)(a) Test Mode. Changed the rule to now allow for 'test meters' as long as they indicate they are 'test meters'.

Section VII(1)(h) Logic Area Access. Removed the requirement for the logic area access information to be sent to the system since the regulations do not require monitoring of the logic area and if power is off, the game will not be able to monitor this area.

Section X Transportation and installation. Corrected the footer to reflect 'Section X – Transportation and Installation.'

VIEJAS TRIBAL GAMING COMMISSION REGULATION
SUBJECT: TECHNICAL SPECIFICATIONS FOR
CARDS, DICE, CHIPS AND TOKENS

I. PURPOSE

1. The purpose for this regulation is to set forth-standardized technical specifications for chips, tokens, cards and dice authorized for use in the gaming facility(s) within the jurisdiction of the Viejas Tribal Government. The Viejas Casino and Turf Club and any manufacturer, distributor, or supplier of chips, tokens, cards and dice must fully comply with all provisions of these specifications prior to putting any of their supplies in play at any Viejas Gaming facility.
2. In addition, the following are purposeful reasons for the regulation:
 - a) To create a standard that will insure that the chips, tokens, cards and dice are securely protected from false reproduction, counterfeit and are made to the highest possible standards.
 - b) To create a set of standards that will impact the credibility and integrity of the devices used in the facility to instill confidence in the gaming public.

II. DEFINITIONS

1. Except as otherwise provided, "Gaming Commissioner" means the Gaming Commissioner of the Viejas Tribal Gaming Commission or his designee.
2. "Chip" means a non-metal or partly metal representative of value issued by the casino for use at table games at the gaming establishment.
3. "Token" means a metal representative of value issued by the casino for use in slot machines and at the table games or counter games at the gaming establishment.
4. "Playing cards" means a deck of 52 cards with each card identical in shape and size and markings on the back are exactly the same.
5. "Dice" means a transparent, perfect cube with six sides, each side contains one to six dots, which when rolled reveal a random number.

III. CHIPS AND TOKENS

1. The gaming operation shall not issue any chips or tokens for use in the facility, or redeem any such chips or tokens, unless approved by the Commissioner. Any modifications of chips or tokens that are previously approved by the Gaming Commissioner, must have been subsequently approved by the Gaming Commissioner.
2. Applications for approval of chips, tokens, and modifications to previously approved chips or tokens must be made, processed and determined in such manner and using such forms as the Gaming Commissioner may prescribe.
 - a) An exact drawing, in color or in black and white, of each side and the edge of the proposed chip or token, drawn to actual size or drawn to larger than actual size (and in scale), and showing the measurements of the proposed chip or token in each dimension;
 - b) Written specifications for the proposed chips or tokens;
 - c) The name and address of the manufacturer;
 - d) The intended use for the chips or tokens;
 - e) A verification upon oath, notarized affirmation, executed by the chief operating officer of the chip or token manufacturer, or a person with equivalent responsibilities, that it has a written system of internal controls, which describes in detail the current administrative, accounting and security procedures which are utilized in the manufacture, storage, and shipment of the chips, tokens and related materials. The written system must include at a minimum, a detailed narrative description of the procedures and controls implemented to insure the integrity and security of the manufacturing process, from design through shipment, including but not limited to those procedures and controls designed specifically to:
 - (i) Provide for the secure storage or destruction of all pre-production Prototypes, samples, production rejects and other nonsaleable products.
 - (ii) Provide security over the finished art work, hubs, plates dies, molds, stamps and other related items which are used in the manufacturing process.

- (iii) Prevent the unauthorized removal of product from the production facility through the utilization of security devices such as metal detectors and surveillance cameras.
 - (iv) Restrict access to raw materials, work in process, and finished goods inventories to authorized personnel.
3. Chips and tokens must be designed, manufactured, and constructed in compliance with all applicable statutes, regulations and policies of the United States, California and other states, so as to prevent counterfeiting of the chips and tokens to the extent reasonably possible. Chips and tokens must not deceptively resemble any current or past coinage of the United States or any other nation.
 4. Chips and tokens must be ordered from and purchased from a reputable company who is bondable.

IV. SPECIFICATIONS FOR CHIPS

1. Unless the Gaming Commissioner approves otherwise, chips must be uniformly disk-shaped, must be .130 inches thick and 1.55 inches in diameter, and;
 - a) The name of the gaming establishment must inscribed on each side of each chip or token.
 - b) The value of the chip or token must be inscribed on each side of each chip or token.
 - c) Each denomination of chip shall contain a predominate color unique to that denomination to be known as the "primary color." A "secondary color" is any color, other than the primary color, on the face and the edge of the chip as a contrast to the chips primary color, except that no primary color shall be used as a secondary color on a chip of another denomination where such use on the edge reasonably is likely to cause confusion as to the chips denomination when the edge alone is visible.
 - d) Each chip must be designed so that when stacked with chips or tokens of other denominations and viewed on closed-circuit, black and white television, the denomination of the chip can be distinguished from that of other chips and tokens in the stack.

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- e) Chips with a value of \$100 or more must incorporate a hidden Alpha or microdot or chip that can be located and identified by cashiers and dealers; or other unique security measure to reduce the risk of counterfeiting.

IV. SPECIFICATIONS FOR TOKENS

1. Unless the Commissioner approves otherwise, tokens must be uniformly disk shaped by denomination, and must measure as follows:
 - a) One dollar denomination tokens must be from 1.459 through 1.474 inches in diameter from .095 through .115 inches thick, and, if the token has reeds or serration's on its edges, the number of reeds or serration's must not exceed 150;
 - b) Five dollar denomination tokens must be 1.75 +/- .005 inches in diameter, from .115 through .135 inches thick, and, if the token has reed or serration's on its edges, the number of reeds or serration's must not exceed 175;
 - c) Twenty-five dollar denomination tokens must be larger than 1.475 inches but no larger than 1.95 inches in diameter, must be .10 +/- .005 inches thick, and, if the token has reeds or serration's on its edges, the number of reeds or serration's must not exceed 200, and;
 - d) Tokens of other denominations must have such measurements and edge reeds or serration's as the Gaming Commissioner may approve or require.
2. Tokens must not be manufactured from material possessing sufficient magnetic properties as to be accepted by a coin mechanism, other than a slot machine.
3. Tokens must not be manufactured from a three layered material consisting of a copper-nickel alloy clad on both sides of a pure copper core, nor from a copper base material, unless the total of zinc, nickel, aluminum, magnesium, and other alloying materials is at least 20% of the tokens weight.

IV. DICE; PHYSICAL CHARACTERISTICS: DICE MUST;

1. Be formed in the shape of a perfect cube;
2. Be transparent and made exclusively of cellulose except for the spots, name of the casino and serial number (if applicable);

3. Have the surface of each side perfectly flat and the spots contained on each side perfectly flush with the area surrounding them;
4. Have all edges and corners perfectly square and forming perfect 90 degree angles, (except for Pai Gow)
5. Have the texture and finish of each side exactly identical to the texture and finish of all other sides;
6. Have its weight equally distributed throughout the cube and no side of the cube heavier or lighter than any other side of the cube;
7. Have its six sides bearing circular spots from one to six respectively with the diameter of each spot equal to the diameter of every other spot on the die, (except for Pai Gow)
8. Have spots arranged so that the side containing one spot is directly opposite the side containing six spots. The side containing two spots is directly opposite the side containing five spots and the side containing three spots is directly opposite the side containing four spots. Each spot shall be placed on the die by drilling into the surface of the cube and filling the drilled out portion with a compound which is equal in weight to the weight of the cellulose drilled out and which forms a permanent bond with the cellulose cube, and shall extend into the cube exactly the same distance as every other spot extends into the cube to an accuracy tolerance of .0004 of an inch.
9. Have the name of the casino in which the die is being used imprinted or impressed thereon.

VII. PAI GOW DICE

1. Because of the shaker in Pai Gow the corners of the Pai Gow dice are rounded to prevent damage and the spots do not need to be the same size. However, all other specifications in VI above must be followed.

VIII. PLAYING CARDS, PHYSICAL CHARACTERISTICS

1. Cards used to play Blackjack, Baccarat, Pan "9", Super Pan "9", Caribbean Stud poker, Let it Ride Poker, shall be in decks of 52 cards with each card identical in size and shape to every other card in said deck. Playing cards shall be manufactured from two sheets of cardboard, glued together with a black opaque glue as to eliminate the possibility of seeing through the cards. Notwithstanding the foregoing, decks of cards used to play the following games shall be modified as follows;

GCR012
Issued

Page 6 of 6

- a) A Pai Gow poker deck shall include one additional joker card, which shall be identical in size and shape to every other card in such deck;
 - b) Pan "9" poker decks shall have the 7's, 8's, 9's, & 10's removed.
2. Each deck shall be composed of four suits, diamonds, clubs, spades and hearts.
 3. Each suit shall be composed of 13 cards; ace, king, queen, jack, 10, 9, 8, 7, 6, 5, 4, 3, 2. The face of the ace, king, queen, jack, 10 value cards may contain an additional marking as approved by the commission, which will permit a dealer, prior to exposing his or her hole card at the game of blackjack, to determine the value of that hole card.
 4. The backs of each card in the deck shall be identical and no card shall contain any marking, symbol or design that will enable a person to know the identity of any element printed on the face of the card or that will in any way differentiate the back of that card from any other card in the deck.
 5. The backs of all the cards in the deck shall be designed so as to minimize as far as possible the ability of any person to place concealed markings thereon.
 6. The design to be placed on the backs of the cards shall contain the name of the casino and shall be submitted to the Gaming Commissioner for approval prior to use in gaming activity.
 7. Each deck of cards shall be packaged separately and shall contain a seal affixed to the opening of such package. (Except Poker decks, which are reusable)
 8. Cards used in the game of poker must;
 - a) Be visually distinguishable from the cards used to play other table games.
 - b) Be made of plastic.

All playing cards used at the Viejas Gaming Facility must be ordered from a reputable company who is bondable. This bond must be negotiated between the manufacturer and senior Viejas management.

VIEJAS INDIAN RESERVATION

ANTHONY R. PICO, CHAIRMAN
 W. M. BACTAD, VICE CHAIRMAN
 JLETTE A. LEWIS, SECRETARY
 ANITA R. UQUALLA, TREASURER
 VIRGINIA M. CHRISTMAN, COUNCILWOMAN
 SANDRA A. BARRETT, COUNCILWOMAN
 CLARENCE R. BROWN, JR., COUNCILMAN



P.O. BOX 908
 ALPINE, CA 91903
 Phone: (619) 445-3810
 Fax: (619) 445-5337

**RESOLUTION BY THE VIEJAS TRIBAL COUNCIL
 ADOPTING TRIBAL GAMING REGULATIONS**

Resolution No. 090398

WHEREAS, the Viejas Band of Mission Indians is a Federally recognized sovereign Tribe (The Tribe) and as such is authorized to exercise its sovereignty in regulating its own affairs, and

WHEREAS, the Tribal Government enacted its own Tribal Gaming Ordinance on July 31, 1998 which authorized Class II and Class III gaming and established a Tribal Gaming Regulatory Agency (The Commission), and

WHEREAS, Section 3.10 of that Ordinance authorizes the Commission to promulgate regulations in support of the Ordinance to regulate the operation of any Viejas Tribal Gaming Establishment, and

WHEREAS, Section 3.05 of that Ordinance requires review and approval of any such regulations by the Tribal Gaming Review Board, and

WHEREAS, The Tribal Government has not yet had an opportunity to appoint, establish or train its Gaming Review Board,

NOW THEREFORE BE IT RESOLVED, that in the absence of the Tribal Gaming Review Board, the governing body of the Tribe (Tribal Council) hereby exercises its authority in approving and adopting Tribal Gaming Regulations GCR001 through GCR008 as proposed by the Tribal Gaming Commission.

Resolution passed this 3d day of Sept. 1998, at a duly noticed meeting of the Viejas Tribal Council by a vote of 4 for, 0 against, and 1 abstaining.

Resolution No. 090398 Authorizing Tribal Gaming Regulations
Page Two

ABSENT

Anthony R. Pico, Chairman

ABSENT

Kim M. Bactad, Vice Chairman

Paulette A. Lewis
Paulette A. Lewis, Secretary

Anita R. Uqualla
Anita R. Uqualla, Treasurer

Clarence R. Brown Jr.
Clarence R. Brown Jr., Councilman

Sandra A. Barrett
Sandra A. Barrett, Councilwoman

Virginia M. Christman
Virginia M. Christman, Councilwoman

VIEJAS TRIBAL INDEPENDENT GAMING REVIEW BOARD

Resolution No. 99-01

WHEREAS, Section 3.05 of the Tribal Gaming Ordinance empowers the Viejas Independent Gaming Review Board to authorize and adopt regulations promulgated, amended, or repealed by the Tribal Gaming Commission, and

WHEREAS, Sections 3.12 of the Tribal Gaming Ordinance requires prior notice and an opportunity to comment on any proposed new or revised regulations by the licensee, and

WHEREAS, the Independent Review Board finds that the Commissioner and the licensee have followed the process set forth in Section 3.12 of the Ordinance and both are in agreement with the proposed new and revised Regulations, and

WHEREAS, the Independent Review Board finds the proposed new and revised Regulations promulgated by the Commissioner and agreed to by casino management as reasonable to effect sound regulatory policy,

NOW THEREFORE BE IT RESOLVED, that the Viejas Tribal Independent Gaming Review Board hereby approves and adopts the new and revised Regulations as specified below:

GCR001 Added new paragraph 3 under Section XVII regarding lab testing and certification of gaming equipment.

GCR001 Added new Section XXIII on Employee Personal Financial Transactions

GCR001 Added new Section XXIV on Disposal of Tribal Assets.

GCR001 Added new Section XXV on Tampering with Surveillance Equipment

GCR001 Renumbered Amendments and Severability Sections to XXVI and XXVII respectively

GCR003 Section III 5, added words to clarify vendor licensing requirements.

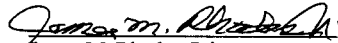
GCR003 Section XI 7 (page 15) replaced old paragraph 7 with new paragraph 7 clarifying due process on license suspensions.

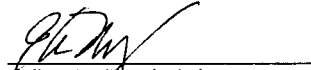
GCR003 Section XI 8 a and b, (page 15) added several words for clarification of due process in license suspensions, denials, or revocations.

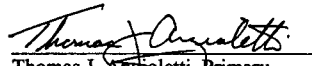
Resolution No. 99-01
 Independent Gaming Review Board Members
 Page Two

BE IT FURTHER RESOLVED, that these new and revised Regulations shall take effect fourteen (14) days from the date of Review Board signatures signifying passage of this Resolution.

Resolution passed this 16th day of JULY 1999, at a duly convened meeting of the Viejas Tribal Gaming Independent Review Board with a quorum of three present, by a vote of 3 for, 0 against, _____ abstaining.


 James M. Rhodes, Primary


 Edlene McKenzie, Primary


 Thomas J. Angioletti, Primary

 William Martinez, Alternate

 Litigia A. Courtney, Alternate

 Richard A. Lawrence, Alternate

VIEJAS TRIBAL INDEPENDENT GAMING REVIEW BOARD

Resolution No. ⁶⁰⁻⁰¹~~99-02~~ *SR*

WHEREAS, Section 3.05 of the Tribal Gaming Ordinance empowers the Viejas Independent Gaming Review Board to authorize and adopt regulations promulgated, amended, or repealed by the Tribal Gaming Commission, and

WHEREAS, Sections 3.12 of the Tribal Gaming Ordinance requires prior notice and an opportunity to comment on any proposed new or revised regulations by the licensee, and

WHEREAS, the Independent Review Board finds that the Commissioner and the licensee have followed the process set forth in Section 3.12 of the Ordinance and both are in agreement with the proposed new Regulations, and

WHEREAS, the Independent Review Board finds the proposed new and revised Regulations promulgated by the Commissioner and agreed to by casino management as reasonable to effect sound regulatory policy,


NOW THEREFORE BE IT RESOLVED, that the Viejas Tribal Independent Gaming Review Board hereby approves and adopts the new Regulations as specified below:

GCR009 Added new Regulation GCR009 adopting conflict of interest, ethics, and conduct code for Commission and Review Board.

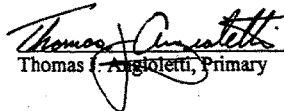
GCR010 Added new Regulation GCR010 to set forth licensing requirements and process for Labor Organizations/Unions.

BE IT FURTHER RESOLVED, that these new Regulations shall take effect fourteen (14) days from the date of Review Board signatures signifying passage of this Resolution.

Resolution passed this 13th day of JANUARY ²⁰⁰⁰~~1999~~, at a duly convened meeting of the Viejas Tribal Gaming Independent Review Board with a quorum of three present, by a vote of 3 for, 0 against, 0 abstaining.


James M. Rhodes, Primary

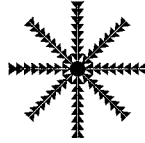

Edlene McKenzie, Primary


Thomas F. Angioletti, Primary

William Martinez, Alternate

Litigia A. Courtney, Alternate

Richard A. Lawrence, Alternate



Viejas Tribal Independent Gaming Review Board

5000 Willows Road • Alpine • CA • 91901
619-659-1703 • fax 619-659-1968

VIEJAS TRIBAL INDEPENDENT GAMING REVIEW BOARD

Resolution No. 00-03

WHEREAS, Section 3.05 of the Tribal Gaming Ordinance empowers the Viejas Independent Gaming Review Board to authorize and adopt regulations promulgated, amended, or repealed by the Tribal Gaming Commission, and

WHEREAS, Sections 3.12 of the Tribal Gaming Ordinance requires prior notice and an opportunity to comment on any proposed new or revised regulations by the licensee, and

WHEREAS, the Independent Review Board finds that the Commissioner and the licensee have followed the process set forth in Section 3.12 of the Ordinance and both are in agreement with the proposed new Regulations, and

WHEREAS, the Independent Review Board finds the proposed new and revised Regulations promulgated by the Commissioner and agreed to by casino management as reasonable to effect sound regulatory policy,

NOW THEREFORE BE IT RESOLVED, that the Viejas Tribal Independent Gaming Review Board hereby approves and adopts the revised Regulations as specified below:

GCR005 completely rewritten / GCR001 revised Section XIV on Contracts / GCR008 Revised Paragraph 5 page 4 / GCR011 revised Section X 3 to be consistent with GCR005.

BE IT FURTHER RESOLVED, that these revised Regulations shall take effect immediately upon receipt of Review Board signatures signifying passage of this Resolution.

Resolution passed this 25th day of April 2000, at a duly convened meeting of the Viejas Tribal Gaming Independent Review Board with a quorum of three present, by a vote of 3 for, 0 against, 0 abstaining.

J. M. Rhodes
James M. Rhodes, Primary

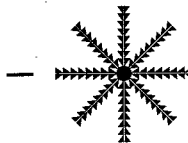
Edlene McKenzie
Edlene McKenzie, Primary

Thomas Angioletti
Thomas Angioletti, Primary

William Martinez
William Martinez, Alternate

Letigia A. Courtney
Letigia A. Courtney, Alternate

Richard A. Lawrence
Richard A. Lawrence, Alternate



Viejas Tribal Independent Gaming Review Board

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VIEJAS TRIBAL INDEPENDENT GAMING REVIEW BOARD

Resolution No. 00-04

WHEREAS, Section 3.05 of the Tribal Gaming Ordinance empowers the Viejas Independent Gaming Review Board to authorize and adopt regulations promulgated, amended, or repealed by the Tribal Gaming Commission, and

WHEREAS, Sections 3.12 of the Tribal Gaming Ordinance requires prior notice and an opportunity to comment on any proposed new or revised regulations by the licensee, and

WHEREAS, the Independent Review Board finds that the Commissioner and the licensee have followed the process set forth in Section 3.12 of the Ordinance and both are in agreement with the proposed new Regulations, and

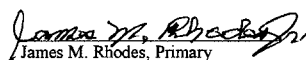
WHEREAS, the Independent Review Board finds the proposed revised Regulations promulgated by the Commissioner and agreed to by casino management as reasonable to effect sound regulatory policy,

NOW THEREFORE BE IT RESOLVED, that the Viejas Tribal Independent Gaming Review Board hereby approves and adopts the revised Regulations as specified below:

Revision "C" of GCR011 which includes all revisions as specified on the attached pages (2).

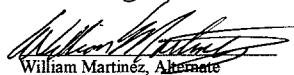
BE IT FURTHER RESOLVED, that these revised Regulations shall take effect immediately upon receipt of Review Board signatures signifying passage of this Resolution.

Resolution passed this 22nd day of MAY, 2000, at a duly convened meeting of the Viejas Tribal Gaming Independent Review Board with a quorum of three present, by a vote of 3 for, 0 against, 0 abstaining.


James M. Rhodes, Primary

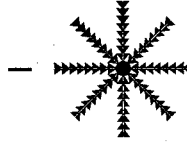

Edlene McKenzie, Primary

Thomas J. Angioletti, Primary


William Martinez, Alternate

Letigia A. Courtney, Alternate

Richard A. Lawrence, Alternate



Viejas Tribal Independent Gaming Review Board

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VIEJAS TRIBAL INDEPENDENT GAMING REVIEW BOARD

Resolution No. 00-05

WHEREAS, Section 3.05 of the Tribal Gaming Ordinance empowers the Viejas Independent Gaming Review Board to authorize and adopt regulations promulgated, amended, or repealed by the Tribal Gaming Commission, and

WHEREAS, Sections 3.12 of the Tribal Gaming Ordinance requires prior notice and an opportunity to comment on any proposed new or revised regulations by the licensee, and

WHEREAS, the Independent Review Board finds that the Commissioner and the licensee have followed the process set forth in Section 3.12 of the Ordinance and both are in agreement with the proposed new Regulations, and

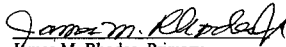
WHEREAS, the Independent Review Board finds the proposed revised Regulations promulgated by the Commissioner and agreed to by casino management as reasonable to effect sound regulatory policy,

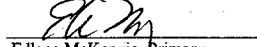
NOW THEREFORE BE IT RESOLVED, that the Viejas Tribal Independent Gaming Review Board hereby approves and adopts the new and revised Regulations as specified below:


GCR001 revised Section VIII Gaming by Employees
GCR012 New – Specifications for Cards, Dice, Ships and Tokens


BE IT FURTHER RESOLVED, that these revised Regulations shall take effect immediately upon receipt of Review Board signatures signifying passage of this Resolution.

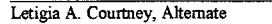
Resolution passed this 6th day of JULY 2000, at a duly convened meeting of the Viejas Tribal Gaming Independent Review Board with a quorum of three present, by a vote of 3 for, 0 against, 0 abstaining.


James M. Rhodes, Primary

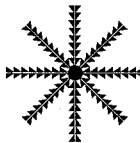

Edlene McKenzie, Primary


Thomas J. Angioletti, Primary


William Martinez, Alternate


Letigia A. Courtney, Alternate


Richard A. Lawrence, Alternate



Viejas Tribal Independent Gaming Review Board

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VIEJAS TRIBAL INDEPENDENT GAMING REVIEW BOARD

Resolution No. 00-06

WHEREAS, Section 3.05 of the Tribal Gaming Ordinance empowers the Viejas Independent Gaming Review Board to authorize and adopt regulations promulgated, amended, or repealed by the Tribal Gaming Commission, and

WHEREAS, Sections 3.12 of the Tribal Gaming Ordinance requires prior notice and an opportunity to comment on any proposed new or revised regulations by the licensee, and

WHEREAS, the Independent Review Board finds that the Commissioner and the licensee have followed the process set forth in Section 3.12 of the Ordinance and both are in agreement with the proposed new Regulations, and

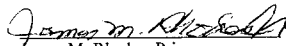
WHEREAS, the Independent Review Board finds the proposed revised Regulations promulgated by the Commissioner and agreed to by casino management as reasonable to effect sound regulatory policy,

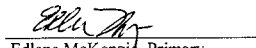
NOW THEREFORE BE IT RESOLVED, that the Viejas Tribal Independent Gaming Review Board hereby approves and adopts the new and revised Regulations as specified below:

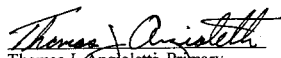
GCR005 revised Section VI (6) Jackpot Verification: Reduced jackpot limit from \$100,000.00 to \$25,000.00 requiring notification of Gaming Commission Inspector.

BE IT FURTHER RESOLVED, that these revised Regulations shall take effect immediately upon receipt of Review Board signatures signifying passage of this Resolution.


Resolution passed this 10th day of October, 2000, at a duly convened meeting of the Viejas Tribal Gaming Independent Review Board with a quorum of three present, by a vote of 4 for, 0 against, 0 abstaining.


James M. Rhodes, Primary

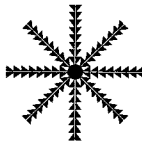

Edlene McKenzie, Primary


Thomas J. Angioletti, Primary

William Martinez, Alternate


Letitia A. Courtney, Alternate

Richard A. Lawrence, Alternate



Viejas Tribal Independent Gaming Review Board

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VIEJAS TRIBAL INDEPENDENT GAMING REVIEW BOARD

Resolution No. 00-07

WHEREAS, Section 3.05 of the Tribal Gaming Ordinance empowers the Viejas Independent Gaming Review Board to authorize and adopt regulations promulgated, amended, or repealed by the Tribal Gaming Commission, and

WHEREAS, Sections 3.12 of the Tribal Gaming Ordinance requires prior notice and an opportunity to comment on any proposed new or revised regulations by the licensee, and

WHEREAS, the Independent Review Board finds that the Commissioner and the licensee have followed the process set forth in Section 3.12 of the Ordinance and both are in agreement with the proposed new Regulations, and

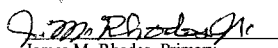
WHEREAS, the Independent Review Board finds the proposed revised Regulations promulgated by the Commissioner and agreed to by casino management as reasonable to effect sound regulatory policy,

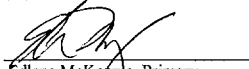
NOW THEREFORE BE IT RESOLVED, that the Viejas Tribal Independent Gaming Review Board hereby approves and adopts the new and revised Regulations as specified below:

GCR005 revised Section VIII with language which will be consistent with MICS and Policies and Procedures.

BE IT FURTHER RESOLVED, that these revised Regulations shall take effect immediately upon receipt of Review Board signatures signifying passage of this Resolution.

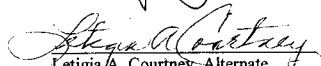
Resolution passed this 12 day of December 2000, at a duly convened meeting of the Viejas Tribal Gaming Independent Review Board with a quorum of three present, by a vote of 5 for, 0 against, 0 abstaining.

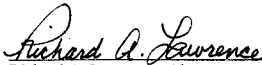

James M. Rhodes, Primary


Edlene McKenzie, Primary


Thomas J. Angioletti, Primary

William Martinez, Alternate


Letitia A. Courtney, Alternate


Richard A. Lawrence, Alternate

“Punishing Success: The Feds Should Remove Barriers To Indian Wealth”

BYLINE: By, Investor's Daily, 7-24-01, p. A-18

BODY: By Doug Bandow, Senior Fellow, CATO Institute

Although most Americans have been enjoying record prosperity over the last decade, some people have been left behind. A slowing economy obviously threatens those with the least. But government continues to pose the greatest danger for those in need. That is certainly so with the 2.2 million American Indians, a third of whom live in poverty.

The billions spent by the Bureau of Indian Affairs have failed to enhance opportunities for American Indians, discouraging what they need most: entrepreneurial enterprise within a growing economy. Indeed, Indians themselves increasingly recognize that federal paternalism is a handicap.

Sen. Ben Nighthorse Campbell, R-Colo., himself an American Indian, observes: "Indians now see private enterprise as the best way out of poverty." Mississippi's Choctaws have created a conglomerate ranging from a casino and golf course to a construction firm and printing plant. A number of other tribes, such as California's Cabazons, Minnesota's Mille Lacs Chippewas and New Mexico's Sandias, have constructed casinos. Others, such as Arizona's Navajos and Jicarillas, produce oil and gas. Oregon's Confederated Tribes manage forests and operate hydroelectric dams. But no good deed threatens to go unpunished.

The Coushattas of southwestern Louisiana, headed by Lovelin Poncho, a Vietnam veteran, opened a casino in 1995. The operation has become the third biggest private employer in the state, with almost 2,900

employees.

Let The Games Begin

As quasi-independent nations, tribes deal directly with the federal government. However, Congress requires each tribe to work out a compact with the state within which it is located before operating a casino.

That was not a problem in 1993, when the tribe inked a seven-year agreement. As part of the deal, the Coushattas paid 6% of net revenue - more than \$ 25 million in payments since 1995 - to Allen Parish in lieu of taxes. Fred Ashy, mayor of Kinder town, observed, "We've gotten a lot of extra funding from them." In theory, at least, the money is to cover the cost of local government services for the casino.

Yet the economic growth associated with the casino generated even more money in taxes, \$ 3.5 million a year for Allen Parish and \$4.4 million a year for the state, according to Loren C. Scott & Associates, a Louisiana consulting firm. Three years ago, the Coushattas suggested beginning negotiations to renew the compact, which expired in 2000. In April 1999, Gov. Mike Foster announced he would not do so. The tribe subsequently made a number of proposals. But the governor balked, originally demanding 18.5%, or more than three times the previous rate. In December he finally agreed to a continuation of the 6% "tax."

Offsetting Costs

But the Interior Department disallowed any state-mandated revenue sharing. Assistant Secretary of Indian Affairs Loretta Tull ruled that any payments had to be used to "offset and defray the expenses of those local governmental authorities resulting from" gambling activity. The Chitimachas came to an agreement in March. The Coushattas

similarly offered to continue contributing towards Allen Parish's operations, at the earlier rate, which would run about \$ 49 million over the next seven years. Such a donation won approval from the Interior Department and Louisiana. But the tribe did request an accounting of how its past payments had been used.

Tribal attorney Kathryn Fowler van Hoof explained that the Coushattas weren't trying to dictate how the money was used, but wanted to know how it was used. Allen Parish said no and Foster refused to accept the agreement. If no agreement was reached, everyone would lose. Without an agreement, casino operations were in jeopardy. But the state and locality can't tax the Coushattas, so without an agreement the parish also would receive no money.

Common Sense Intervenes

The Coushattas could have sued Louisiana for failing to fulfill its responsibility, but the state could try to avoid liability by raising the issue of sovereign immunity to any lawsuit. There are "alternate procedures through the Interior Department, but they don't provide a quick remedy," van Hoof said. Disaster seemed to loom.

But common sense broke the impasse on Friday, when the parish agreed to accountability and the state and Coushattas signed a new compact. Although the latest controversy was in Louisiana, van Hoof warns that it is going to be a "national issue, since a lot of these state compacts are beginning to expire and are in need of renewal."

There's no right or wrong level of contribution from any Indian tribe to local or state authorities. But it is wrong for government to play chicken with the jobs of Americans. States should not treat Indian tribes as financial geese to be plucked. The federal government should stop states from acting that way.



CHIEF
WILLARD L. ACKLEY

SOKAOGON CHIPPEWA COMMUNITY

MOLE LAKE BAND
3086 STATE HIGHWAY 55
CRANDON, WISCONSIN 54520-8878
(715) 478-7500
FAX (715) 478-5275

August 7, 2001

Senator John McCain
241 Russell Senate Office Building
Washington, D.C. 20510-0303

**VIA FACSIMILE TO (202) 228-2862
ORIGINAL WILL FOLLOW VIA UPS OVERNIGHT**

Dear Senator McCain:

Thank you for your letter dated July 12, 2001, regarding the recent hearings on Indian gaming held before the Senate Committee on Indian Affairs. I appreciate you taking the time to explain why you requested the hearing and I regret that I was unable to attend. On behalf of my Tribe, I submit the following comments and request that they be included in the Committee's record in their entirety.

Almost eight years ago, our Tribe, along with the Lac Courte Oreilles Band of Lake Superior Chippewa Indians (LCO) and the Red Cliff Band of Lake Superior Chippewa Indians (Red Cliff), each from economically depressed areas of northern Wisconsin, joined together to seek the approval of the Secretary of Interior to establish an off-reservation gaming facility in the existing grandstand of a Class III greyhound racing facility located in the northern Wisconsin city of Hudson, Wisconsin about 20 miles east of the Minneapolis/St. Paul metropolitan area. Before embarking on what has turned out to be a long and tortured journey, our leaders consulted with then Wisconsin Governor Tommy Thompson, who said that he would not oppose our efforts if each Tribe agreed to give up the right in their respective Compacts with the State of Wisconsin to establish a second on-reservation casino or, in our case, close the second casino operating on our small reservation. Based upon Governor Thompson's promise, we decided to invest our scarce resources in seeking approval of the project from the Secretary.

Senator John McCain
 Senate Committee on Indian Affairs
Comments to the Committee
July 25, 2001 Hearing on Indian Gaming
 August 7, 2001
 Page 2

In January, 2001, however, Governor Thompson was offered a cabinet position in the Bush Administration and resigned before the Secretary of the Interior had completed her review of our proposal. In one of his early pronouncements before he became Governor of Wisconsin, Scott McCallum stated that he was philosophically opposed to gaming and would not concur in any decision by the Secretary approving our proposal for a gaming facility in Hudson. On February 20, 2001, the Secretary, in accordance with § 2719(b)(1)(A) determined that our proposed Hudson gaming facility was in the best interests of our Tribes and would not be detrimental to the surrounding community and sought Governor McCallum's concurrence in these findings. The Secretary sent these detailed findings of fact prepared by Interior's Indian Gaming Management Staff, supported by a massive record which includes an extensive Environmental Assessment and a Finding of No Significant Impact to Governor McCallum shortly thereafter. By letter dated May 11, 2001, Governor McCallum formally advised the Secretary of his nonconcurrence.

Governor McCallum's decision may have sealed the economic fate of our members totaling over 10,000 American Indians for generations to come and there appears to be little we can do about it. We seek your help and that of the Senate Committee on Indian Affairs.

We believe that the governor concurrence provision in 25 U.S.C. § 2719(b)(1)(A) of the Indian Gaming Regulator Act is invalid because it violates Congress's trust responsibility to our economically disadvantaged Tribe. It gives one state political official who does not have a trust responsibility to Indian Tribes the unfettered and unreviewable political power under federal law to prevent Congress from fulfilling its trust responsibility to our economically disadvantaged Tribes. This abdication of power defeats the long-standing Federal Indian policy to promote tribal economic development, tribal self-sufficiency and strong tribal government through gaming revenues.

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Additionally, we believe the governor concurrence provision in § 2719(b)(1)(A) violates Article I, § 1 of the United States Constitution by delegating Congress's plenary legislative power regarding Indian Tribes to governors; violates Article I, § 8 and the 10th Amendment by enlarging the power of governors to determine a state's policy on Indian gaming proposals; violates the Article II executive powers by transferring to governors the power to make a purely political decision and nullify administrative findings by the Secretary; violates the Appointment Clause, Article II, § 2m Cl. 2 and constitutional separation of powers by expanding the powers of governors at the expense of the Executive Branch; and violates due process of law guaranteed by the 5th Amendment.

BACKGROUND

My Tribe, the Sokaogon Chippewa Community (Mole Lake Band of Lake Superior Chippewa Indians), is a federally-recognized Indian Tribe with a reservation in Mole Lake, near the City of Crandon, in northern Wisconsin. We have 1140 members, approximately 365 of which currently live on or near our beautiful reservation. Please see the Wisdom Report of 1939 for more information of the history of my Tribe.

The Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin ("LCO") is a federally-recognized Indian Tribe with a reservation in Sawyer County, near the City of Hayward, in northern Wisconsin. LCO has 5460 members of which approximately 3565 currently live on or near their reservation.

The Red Cliff Band of Lake Superior Chippewa Indians ("Red Cliff") is a federally-recognized Indian Tribe with its reservation in Bayfield County, Wisconsin on the shores of Lake Superior. Red Cliff has 3879 members of which approximately 1797 currently live on or near their reservation.

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Congress has promoted gaming as a means for achieving the overriding goal of Federal Indian policy to encourage tribal self-sufficiency and economic development. Historically, states have resisted Indian gaming and have attempted to assert jurisdiction over Indian gaming. In *California v. Cabazon Band of Indians*, 480 U.S. 202 (1987), the United States Supreme Court held that in Public Law 280 states like Wisconsin, which regulate gaming but do not prohibit it, states cannot prohibit or regulate gaming on "Indian lands." Indian lands include both reservation land and lands acquired by the Secretary of the Interior in trust for the benefit of a Tribe pursuant to 25 U.S.C. § 465 of the Indian Reorganization Act.

In late 1988, President Reagan signed the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701, *et seq.* (IGRA). In the wake of the *Cabazon* decision, State governors urged Congress to enact legislation either to curb Indian gaming or replace or supplement tribal regulation of gaming with state regulation. Congress struck a compromise in the case of on-reservation gaming. Congress created a system of joint regulation by Tribes and the federal government of Class II gaming (high stakes bingo) on Indian lands and a system for compacts between Tribes and states for regulation of Class III gaming (slot machines, parimutuel betting and casino card games).

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Off-reservation gaming for Tribes like ours was an inevitable necessity because our reservation is located in a sparsely-populated rural area, as is true for Red Cliff and LCO, as well. Forest County, Wisconsin, much of which is part of the Nicolet National Forest, where our reservation is located, has a total population of about 9,000. In order for us to meaningfully help ourselves we, like any business, had to look to urban areas for new opportunities.

In the IGRA, Congress empowered governors to veto for any reason a factual determination made by the Secretary of Interior that the application met the standards for off-reservation gaming established by Congress. Section 2719(a)(1) prohibits gaming on any lands acquired in trust by the Secretary for the benefit of Tribes after the date of IGRA's adoption, October 17, 1988, for those Tribes with existing reservations unless one of the exceptions in § 2719(b) is present. Section 2719(b)(1)(A), the exception at issue in this case, provides that the prohibition in § 2719(a)(1) does not apply when:

the Secretary, after consultation with the Indian tribe and appropriate State, and local officials, including officials of other nearby Indian tribes, determines that a gaming establishment on newly-acquired lands would be in the best interests of the Indian tribe and its members, and not would be detrimental to the surrounding community, but only if the Governor of the State in which the gaming activity is to be conducted concurs in the Secretary's determination

Emphasis added.

The governor concurrence provision allows governors to determine whether gaming can occur on lands acquired in trust for the benefit of an Indian Tribe after the adoption of IGRA. Governors have no power to determine whether the Secretary acquires land in trust, however. See 25 U.S.C. § 2719(c). Governors were not empowered by Congress to prohibit gaming on trust land acquired before October 17, 1988, as well as on other tribal lands described in §§ 2719(a)(2), (b)(1)(B) and (b)(2).

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Both before and after the enactment of the IGRA, the economic benefits of gaming have not been shared equally by Indian Tribes. In fact, disparities are the norm. Tribes who have reservations near urban centers or destination resorts benefit greatly from gaming. As an example, the Shakopee Mdewakonton Sioux Community Tribe who have a reservation about 25 miles south of the Minneapolis/St. Paul area operate two casinos that generate several hundred million dollars each year in revenues which allows the Tribe to make high six-figure annual per capita distributions to each tribal member. The few Tribes that have been successful in obtaining the concurrence of a state governor to an off-reservation facility have also benefitted greatly.

On the other end of the spectrum are economically-depressed Tribes like ours, LCO and Red Cliff whose reservations are located in less populated rural areas. By enacting § 2719(a)(1) of IGRA and requiring governor concurrence in the two-part factual determination under § 2719(b)(1)(A), Congress ceded its power to determine the economic future of the "have not" Tribes to the machinations of state governors who are often adverse to the interests of such Tribes for political reasons.

CONDITION OF OUR TRIBES TODAY

My Tribe suffers from serious economic problems as a result of unemployment and under-employment among our members who reside on or near the reservation. Our unemployment rate is over 35%. I am told that LCO's unemployment rate consistently hovers over 50%, as does Red Cliff's. A majority of our Tribal members live below the poverty level, as do many at LCO and Red Cliff. Our Tribal members who want to live on the reservation and preserve a way of life pay a heavy economic price.

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Our Tribe operates a small casino here on the reservation which provides needed employment for not only our Tribal members but many others in Forest County, as well. In fact, our Tribal government and its casino combined constitute the second-largest employer in Forest County with just over 200 full and part-time people on the payroll. Many of the Tribal jobs are possible only because of the modest revenues from our casino which may be threatened due to the recent national economic downturn. While we love our land as our ancestors did, our rural northern Wisconsin location significantly limits the income generated by our casino. I know that LCO and Red Cliff face similar problems.

As I mentioned before, our reservation is very small, comprising only about 1300 acres in and around Mole Lake. There are about 365 of our members living on or near the reservation. Unlike state, county and local governments, we have no meaningful way to generate income for the Tribe other than through gaming. We cannot assess property taxes because all of our land is held in trust by the federal government. Even if we thought we could, it would be senseless for our Tribal Council to attempt to impose an income tax on our members because they try to make ends meet on very little already.

Shrinking federal dollars are ravaging my Tribe's ability to provide basic services to our members, especially those who cannot readily help themselves through work, our elders and youth. We rely heavily on revenues from our on-reservation casino to help fill the gaps but that is nowhere near enough to satisfy our very modest needs. I do not see any "rich Indians" on our reservation, only those who live by very modest means.

My Tribe has no ability to fund infrastructure improvement to our water system. Due to the small size of our reservation, our houses which use individual septic systems are close in proximity to one another. This condition will inevitably lead to contamination of our drinking water if we are not able to construct a new wastewater treatment facility. It could also lead to pollution of our cherished Rice Lake which we rely upon for its wild rice, a staple of our diet. Additionally, we are facing a proposed underground copper and zinc mine which would be located about one mile upstream from Rice Lake.

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We have no Tribal Police Department or other emergency services such as fire or ambulance. I believe we have a number of Tribal members who would serve honorably in such positions if we were able to afford to establish the services. We have a good relationship with our township neighbors and we would like to do what we could to help them, as well, perhaps through cost-sharing of equipment purchases. Unfortunately, we have no funds to allocate toward such an investment.

Most alarmingly, we have no primary school (Head Start and kindergarten through 5th or 8th grade) on the reservation. My understanding is that numerous studies have shown that American Indian children have a far greater likelihood of success if they are schooled on the reservation before going off to high school. Additionally, we have no day care facility on the reservation. Our Tribal members must then sometimes choose between working and paying exorbitant day care costs somewhere else or not working at all and scraping by on odd jobs so they can be at home with their children.

WE HAVE TRIED TO HELP OURSELVES

The only avenue that Congress has left open for economically less fortunate Tribes like ours to achieve economic self-sufficiency through Indian gaming is to seek the Secretary's approval to conduct gaming on lands that are located outside of the boundaries of their reservations. This is exactly what we attempted to do beginning eight years ago.

In June, 1993, the LCO and Red Cliff Tribes reached an agreement with the owner of a Class III state-licensed parimutuel greyhound facility in Hudson, Wisconsin to acquire it for the purposes of establishing an off-reservation gaming facility in the existing grandstand building. Hudson is located in northwestern Wisconsin located adjacent to I-94 about 20 miles east of the Minneapolis/St. Paul metropolitan area. The \$40 million greyhound facility is located on 120 acres of land which were annexed to the City of Hudson and was approved for parimutuel gaming by the State of Wisconsin in 1989 after a competitive bidding process.

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Shortly before the facility opened in 1991, however, court decisions opened the door for casino-style Class III gaming by Indian Tribes. As a result of competition principally from Indian Tribes located in Minnesota, the greyhound facility began losing money almost immediately because patrons prefer the various options and excitement of casino gaming over greyhound racing by itself. In fact, we opened our casino here in Mole Lake in 1991.

Before submitting their application to the Secretary, LCO and Red Cliff representatives consulted with then Governor Tommy Thompson who indicated that he would not oppose the project if: a third Wisconsin Tribe was brought into the venture; the three Tribes jointly pursued the Hudson project; and each Tribe agreed to give up the right under their Compacts with the State of Wisconsin to establish a second on-reservation casino. Our Tribe was approached by LCO and Red Cliff and agreed to join the venture under the terms set by Governor Thompson.

On September 30, 1993, our Tribe, LCO and Red Cliff jointly entered into agreements to purchase the Hudson greyhound racing facility and for an affiliate of the facility's owner to provide venture capital and assistance in managing a combined greyhound racing/casino facility. It is a win-win deal. The Tribes will acquire the \$40 million facility with no money down by assuming an \$18.5 million nonrecourse mortgage debt. The greyhound facility's owner, through the management contract, will have an opportunity to recoup its massive losses. The agreements are contingent upon obtaining approval under the Indian Gaming Regulatory Act to establish a casino in the existing grandstand on the property. We believe (as does Arthur Anderson Consulting) the addition of casino-style gaming to the fully-improved 120 acre facility will be successful because of the facility's close proximity to the Minneapolis/St. Paul metropolitan area and its easy access by freeway.

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In October, 1993, we formally submitted our application to the Secretary for approval of the proposed off-reservation gaming facility. The Secretary has established a quasi-judicial administrative fact-finding process to consider such an application. A record is developed through consultations with the applicant Tribe (and the Tribes' professional consultants) and other interested parties including local municipal governments, state officials, including the Governor, and nearby Indian Tribes. Interior professional staff analyze the record and prepare findings based upon the objective facts in the record. Based upon these findings of fact, a recommendation is made to the Secretary as to whether the proposed off-reservation facility is in the best interests of the applicant Tribe(s) and not detrimental to the surrounding community as required by 25 U.S.C. § 2719(b)(1)(A) of IGRA. In addition, the requirements of the National Environmental Policy Act ("NEPA") are addressed through analysis of the potential impacts of the proposed off-reservation facility.

In accordance with Interior's procedure, our application was first analyzed by the Minneapolis Area Office of the Bureau of Indian Affairs of the Department of Interior ("BIA"). At the suggestion of BIA, we negotiated an agreement with the City of Hudson and the County of St. Croix to make payments to the municipalities for services and to agree to abide by local zoning laws. The Agreement for Governmental Services was executed on April 30, 1994.

The Minneapolis Area Office of BIA also performed the consultations required by § 2719(b)(1)(A) of IGRA with the City of Hudson, St. Croix County, the Town of Troy and "nearby" Indian Tribes. During the consultation process, several wealthy Tribes with very lucrative casinos in the greater Minneapolis/St. Paul market expressed strong opposition to the competition presented by our proposal.

In compliance with its obligations under NEPA, BIA issued a Finding of No Significant Impact on September 14, 1994 based upon an Environmental Assessment prepared on behalf of our Tribes.

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On November 15, 1994, the Minneapolis Area Director of BIA submitted her memorandum report supported by exhibits to the Assistant Secretary-Indian Affairs at Interior's Washington offices. The Area Director concluded:

Based upon the documentary support that was prepared during the course of the review and analysis of the Tribes' Application, the Area Office has prepared the attached Recommended Findings of Fact and Conclusions.

Based upon the Tribes' Application, the documentary support and the consultations between the Great Lakes Agency Superintendent, City of Hudson, St. Croix County, and other federally-acknowledged Indian tribes located in Wisconsin and Minnesota, the Recommended Findings of Fact and Conclusions conclude that allowing gaming on the proposed trust property is in the best interest of the Tribes and its members and would not be detrimental to the surrounding community.

Based upon this determination, the Area Director recommended that the Secretary approve gaming on the proposed trust property in Hudson.

The Minneapolis Area Director's report and recommendation resulted in a furious lobbying campaign in Washington by the wealthy opposing Tribes with lucrative casinos in the market. Despite a second favorable analysis and recommendation from Interior's professional staff in Washington, the Deputy Assistant Secretary of Indian Affairs issued a short letter rejecting our application on July 14, 1995.

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WE SEEK JUSTICE

On September 15, 1995, we commenced a lawsuit in the United States District Court for the Western District of Wisconsin challenging the July 14, 1995 decision letter pursuant to the Administrative Procedures Act, 5 U.S.C. § 701, *et seq.* See *Sokaogon Chippewa Community, et al. v. Babbitt, et al.*, Case No. 95-C-659-C (W.D. Wis.). Our Complaint alleged, among other things, that Interior officials had violated their duty to consult with us and that the decision was a result of improper political influence. The administrative record filed with the court contained over 3400 pages.

On March 19, 1997, District Court Judge Barbara Crabb ruled that “there is considerable evidence that suggests that improper political pressure may have influenced agency decisionmaking,” *Sokaogon Chippewa Community v. Babbitt*, 961 F. Supp. 1276, 1286 (W.D. 1997) and authorized discovery outside of the administrative record. This evidence is set forth in detail in her decision.

Subsequently, concerns about the July 14, 1995 decision resulted in investigations by and hearings before the Senate Governmental Affairs Committee and the House Committee on Government Reform and Oversight. Also, on February 11, 1998, Attorney General Janet Reno applied to the Special Division of the United States Court of Appeals for the District of Columbia for the appointment of an Independent Counsel “to investigate whether Bruce Edward Babbitt, Secretary of the Interior, committed a violation of federal criminal law in connection with his sworn testimony on October 30, 1997 before the Senate Governmental Affairs Committee, and to determine whether prosecution is warranted.” On March 19, 1998, the Special Division issued an Order granting the Attorney General’s request and appointed an Independent Counsel.

In the spring of 1999, our Tribes and Interior agreed to mediate our disputes. After a difficult and complex mediation, we executed a “Settlement Agreement” on October 8, 1999 ending the litigation described above. As part of the Agreement, Interior vacated the July 14, 1995 decision and agreed to resume its consideration of our land-to-trust application. We also agreed to update the Environmental

Assessment and to provide for a thirty-day public comment period on the application as part of the NEPA process.

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On November 26, 1999, the St. Croix Chippewa, who operate three casinos including an off-reservation casino in Turtle Lake, Wisconsin, about 50 miles from Hudson, and who have just applied for a fourth casino in Beloit, Wisconsin, near the Wisconsin-Illinois border, filed an emergency motion to intervene in the litigation to challenge the Settlement Agreement. Judge Crabb denied the motion to intervene and approved the Settlement Agreement on December 3, 1999. On January 13, 2000, the St. Croix Chippewa appealed to the Court of Appeals for the Seventh Circuit. The Seventh Circuit affirmed on December 6, 2000. See *Sokaogon v. St. Croix Chippewa*, 214 F. 3d 941 (7th Cir. 2000).

In the ensuing months, we devoted significant time, energy and money to our efforts to establish (for a second time) that the Hudson project was in our best interest and not detrimental to the surrounding community. Among other things, Arthur Andersen was retained to perform a second market analysis to project the financial performance of the Hudson facility and its competitive impact on other casinos in the market area. URS Greiner Woodward Clyde was retained to perform a new Environmental Assessment to include analyses of potential impacts on traffic, air quality, noise, sewer and water facilities, existing and projected future land usage and other related issues. Lawyers for our Tribes also drafted new legal documents for the complex acquisition and joint operation and governance of the proposed Hudson facility.

On July 14, 2000, the Prairie Island Indian Community, a small 501-member tribe who operate a large, lucrative casino on their reservation in Prairie Island, Minnesota, filed a lawsuit in the United States District Court for the District of Minnesota, also challenging the Settlement Agreement between Interior and our Tribes on the ground that the agreement violated their right to consultation.

On July 31, 2000, the draft Environmental Assessment was made available by Interior (including on Interior's website) for a thirty-day public comment period. A substantial number of comments were received during this period. The comments were analyzed by Interior's environmental staff and URS Greiner Woodward Clyde and favorably addressed or resolved.

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On November 2, 2000, the District Court denied Prairie Island's motion for a preliminary injunction to stop Interior from completing its consideration of the our application, concluding there was little probability of success on the merits. This case is still pending.

SO CLOSE YET STILL SO FAR

On January 19, 2001, Interior issued a Finding of No Significant Impact ("FONSI") for the Hudson project for the second time.

By the time the FONSI was issued, Governor Thompson had announced that he accepted President Bush's appointment to be Secretary of the Department of Health and Social Services and would be resigning on or about January 31, 2001. Prior to issuing the Finding of No Significant Impact and its ultimate determination under IGRA, the Secretary asked Governor Thompson for comments on the application. Governor Thompson chose not to comment prior to the decision by the Secretary.

In public statements both before and after he was sworn in as Wisconsin's new Governor on February 1, 2001, Governor Scott McCallum said that because he is philosophically opposed to gaming he would not approve the proposed Hudson facility. In a letter to Governor McCallum dated February 20, 2001, Acting Deputy Assistant Secretary - Indian Affairs James H. McDivitt advised the Governor that the Secretary determined that the Hudson facility was in the best interests of the our Tribes and would not be detrimental to the surrounding community and asked for the Governor's concurrence in these findings.

Shortly thereafter, the Department of Interior delivered to Governor McCallum for his review detailed findings of fact prepared by Interior, which supported Assistant Secretary McDivitt's determination, and a copy of the extensive administrative record developed by Interior.

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By letter dated May 11, 2001, Governor McCallum formally notified the Secretary of the Governor's nonconcurrence in the Secretary's favorable two-part determination under 25 U.S.C. § 2719(b)(1)(A) of IGRA. Governor McCallum never objected to any particular fact found by Interior's Indian Gaming Management Staff. Rather, he attempted to couch his non-concurrence in an argument citing Wisconsin voters' alleged "anti-gambling consensus." Unfortunately, Governor McCallum apparently forgot that the State of Wisconsin derives significant income from its participation in a lottery, parimutuel live and simulcast betting and payments from the eleven (11) American Indian Tribes located in Wisconsin who have casinos (all highly regulated Class III gaming). Additionally, Governor McCallum apparently forgot that the State of Wisconsin has what I estimate to be in excess of 50,000 video poker machines in bars across the State, none of which are regulated in any way, of course. These are Class III gaming devices similar to our slot machines. I believe you will find more video poker machines in operation in Wisconsin than American Indian-owned slots.

Although these video poker machines technically are illegal, it is only a misdemeanor offense to possess an unlicensed video poker machine so long as a bar owner has five or less in his establishment. The key is that it is a *misdemeanor*, rather than a felony. Therefore the bar owner's liquor license would not be in jeopardy even if he were convicted of possessing the machines. As a practical matter, this law is not enforced. Governor McCallum's hollow reasoning for his non-concurrence is belied by the fact that, apparently, there have been exactly zero prosecutions or, to my knowledge, arrests by county sheriffs for possession of video poker machines since the law was changed in 1999.

By letter dated June 13, 2001, the Secretary advised our Tribes that because of Governor McCallum's nonconcurrence, the Hudson land could not be acquired in trust for gaming purposes but could be acquired in trust for a non-gaming purpose if the Tribes requested.

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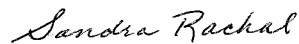
We believe that the Governor concurrence provision of IGRA violates the trust responsibility of the federal government to Indian Tribes, violates the Constitution and should be changed and are currently litigating this matter in the United States District Court for the District of Columbia (Case Number 01 CV 01042). We have been deprived of and will continue to be deprived of the economic benefits of the Hudson proposal, approved by the Secretary, unless the governor concurrence provision of IGRA is abolished and Secretary proceeds to acquire the Hudson facility for the benefit of our Tribes and to authorize gaming activities at that facility.

I appreciate you taking the opportunity to review the foregoing comments and add them to the Committee's record. I also wish to extend a formal invitation to you and any other Senator who would like to visit our reservation. I hope to meet you in person one day soon.

Please contact me if you have any questions.

Sincerely,

SOKAOGON CHIPPEWA COMMUNITY
(Mole Lake Band of Lake Superior Chippewa Indians)



Sandra Rachal
Chairwoman

cc: All Members of Tribal Council
Chairman Al Trepania - LCO
Chairman Ray DePerry - Red Cliff



CONFEDERATED TRIBES OF
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July 30, 2001

The Honorable John McCain
United States Senate
241 Russell Senate Office Building
Washington, D.C. 20510-030

Re: Oversight on Indian Gaming Issues

Dear Senator McCain:

We have received your letter of July 12, 2001, inviting comments as to the development of Indian gaming pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. § 2701, et seq. ("IGRA").

The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians have run into what we now know to be one of the major issues which arise under IGRA, and that is the meaning of "restored lands" under Section 20. Specifically, the Department of the Interior has attempted to write a definition of the term which is at odds with the plain language of the statute and is impeding the development of legitimate gaming projects in the process. The Confederated Tribes represent just one such example of this.

We acquired in trust land which clearly qualifies as "restored land" to the Confederated Tribes, something which was specifically confirmed by the Northwest Region of the bureau of Indian Affairs. Yet, the Solicitor's office in conjunction with some "policy" formulated by the Office of the Assistant Secretary for Indian Affairs denied our request for certification of the land under Section 20 for reasons which were outside the language of the law and which were rejected by the United States District Court for the district of Columbia in an opinion dated September 29, 2000. See *Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians v. Babbitt, et al.*, Civil Action No. 99-2517 (JHG). The matter was remanded to the Department for further action in accordance with the opinion, but we still do not have a final resolution of the issues – which I reiterate were resolved against the Department's policy position by the federal court some 10 months ago. Our judicial success is consistent with that enjoyed by the litigant tribe in the case of *Grand Traverse Band of Ottawa and Chippewa Indians v. United States Attorney for the Western District of Michigan*, 46 F. Supp. 2d 689, 696 (W.D. Mich. 1999). There, as in our case, the Department attempted to

implement a policy decision which was at odds with the statute, and the federal court in Michigan rejected the policy with a remand for further action in accordance with the opinion. That Tribe also is still waiting for some final determination despite the fact that the matter was remanded to the Department two years ago.

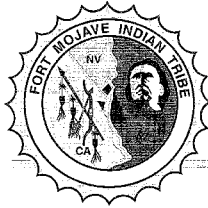
The Department does not have any legal right to rewrite a federal law, yet its attempts to severely limit the meaning of the words "restored lands" as used in IGRA Section 20 is just that. It is time for Congress to examine this issue, for tribes are being hurt. We have spent years attempting to secure BIA confirmation of what is fact – that the land at issue is "restored" land for the Confederated Tribes. The Grand Traverse have been at it even longer. The time is past when any of us should accept BIA bureaucratic delay which is both illegal and contrary to the BIA's role to represent the Indian community in a fiduciary capacity.

We are available to answer any questions which you may have and we will furnish to your staff copies of all materials we have which are relevant to these issues. However, we need the help of congress now and we seek your assistance.

Respectfully yours,



Carolyn R. Slyter, Vice Chairman
Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians



Fort Mojave Indian Tribe

NORA HELTON - Chairperson
 LLEWELLYN BARRACKMAN - Vice Chairman
 ELROY JACKSON - Secretary
 CRAIG CASTILLO, SR. - Member • COLLEEN GARCIA - Member
 DEBBIE JACKSON - Member • BEATRICE JACOBO - Member
 500 Merriman Avenue • Needles, CA 92363
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July 26, 2001

The Honorable John McCain, U.S. Senator
 Committee on Indian Affairs
 United States Senate
 241 Russell Senate Office Building
 Washington, D.C. 20510-0303

Re: Committee Oversight Hearing on Implementation
 of Indian Gaming Regulatory Act of 1988 ("IGRA"),
 July 25, 2001

Dear Senator McCain:

Thank you for your letter dated July 12, 2001, in which you invited comments from the Fort Mojave Indian Tribe for submission as part of the Committee's hearing record. The Fort Mojave Indian Reservation is comprised of approximately 33,000 acres of land held in trust by the United States and located along the Colorado River within the geographic boundaries of Mohave County, Arizona, San Bernardino County, California and Clark County, Nevada. The Tribe owns and operates the Spirit Mountain Casino within the Arizona portion of the Reservation pursuant to the terms of its 1993 Class III Gaming Compact with the State of Arizona. Avi Casino Enterprise, Inc., a corporation organized under Fort Mojave Tribal law and wholly-owned by the Tribe, owns and operates the Avi Casino and Hotel within the Nevada portion of the Reservation pursuant to the terms of the Gaming Compact entered into between the Tribe and the State of Nevada in 1987.

Both of the Tribe's casino operations have been successful profit-making ventures. While the revenues generated by Spirit Mountain and the Avi are modest when compared with those of gaming Tribes located in more populous areas, our gaming facilities, as well as other economic development facilitated by gaming, have enabled my Tribe to provide governmental services and employment opportunities to Tribal members

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which would otherwise be unavailable due to lack of financial resources. We have a long way to go before our ultimate goal of economic self-sufficiency is realized. However, one of the primary goals of IGRA, the promotion of Tribal economic development, self-sufficiency and strong Tribal government, has begun to be realized on the Fort Mojave Indian Reservation.

As your July 12 letter suggests, the continued success of Indian gaming is inherently tied to appropriate and effective oversight and regulation. I believe that the reason gaming conducted under IGRA is generally regarded as free from serious problems is twofold. First, and foremost, Tribes recognize the necessity of preserving the integrity of their gaming operations and have acted to ensure same. Second, the existing federal regulatory structure is adequate. I would therefore caution the Committee in its present undertaking. Unnecessary federal regulation, as well as federal regulation which conflicts with existing State and/or Tribal regulation pursuant to gaming compacts, will only result in undue costs and restrictions on Tribal gaming operations. The economic and operational burdens resulting from undue federal regulation would hinder, rather than promote, economic development, self-sufficiency and strong government by Tribes.

The unique and diverse circumstances of Tribes throughout the nation, such as locality, population and non-Indian competition, have a direct impact on the ability of gaming ventures to succeed. Uniform federal regulation is not well-suited to accommodate the varying needs and interests. States, as well as Tribes, have a keen interest in ensuring that Tribal gaming is properly regulated. This is, no doubt, why Congress provided in IGRA that regulation is a matter to be primarily determined in Tribal-State Compacts. The Fort Mojave Tribe, with its Arizona and Nevada Tribal-State Compacts and gaming operations in both States, provides a good example of why additional federal regulation would be unnecessary, unworkable and unduly burdensome.

Under our 1993 Compact with the State of Arizona, the Tribe retains primary jurisdiction for the regulation of Class III gaming activities. The State has an integral oversight role, which includes certification of gaming employees and vendors and other regulatory matters. The extensive and vigorous Compact regulatory provisions are routinely implemented by the Fort Mojave Tribal Gaming Commission and the Arizona Department of Gaming. Our Spirit Mountain Casino is subject to regular on-site inspections by both Tribal and State gaming officials, as well as periodic State audits for compliance with all Compact provisions.

The Honorable John McCain
United States Senate
July 26, 2001
Page 3

In considering the passage of IGRA, Congress expressly recognized the Compact negotiated between the Tribe and Nevada as one appropriate under IGRA. See, S.Rep.No. 100-446, 100th Cong., 2d.Sess.(1988). Under its Nevada Compact, the Tribe transferred all of its civil and criminal jurisdiction to regulate Class III gaming, with the sole exception of taxing authority, to the State. The Tribe's Avi Casino is, therefore, licensed by the State of Nevada and fully subject to all gaming laws, rules and regulations of Nevada, the Nevada Gaming Commission and the Nevada Gaming Control Board. In short, the Avi Casino is, regulated exactly the same as casinos located on the Las Vegas strip, as would any other operators locating on Tribal Property in Nevada.

The Tribe's Nevada Reservation lands are located approximately 10 miles south of Laughlin, Nevada. The Avi Casino is in direct competition with Laughlin's approximately twelve (12) Las Vegas-style casino-resorts. Any new federal regulations which impose additional costs and/or operational restrictions on the Avi specific to Indian gaming would not apply to the off-Reservation Laughlin casinos. The consequent competitive disadvantage could potentially cause the Avi to close its doors and severely hamper, if not completely eliminate, the Tribe's ability to provide for Class III gaming on its Nevada Reservation lands in the future.

I appreciate your interest in preserving the integrity of Indian gaming so as to ensure that the much-needed and vital revenues therefrom continue for the Tribes. I am confident that you and other Senate Committee members will be mindful of the potential negative consequences of increased federal regulation of Indian gaming in your review of IGRA and Tribal gaming activities.

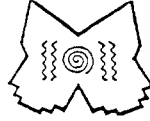
Sincerely,



Nora Helton, Chairperson
Fort Mojave Indian Tribe

806

GOVERNOR
Jacob Viarrial
LIEUTENANT GOVERNOR
George Rivera



SECRETARY
Linda Diaz
TREASURER
Jo Speer

PUEBLO OF POJOAQUE

GOVERNOR'S OFFICE

17746 US 84/285
SANTA FE, NEW MEXICO 87501
(505) 455-3901 • Fax: (505) 455-3363

July 30, 2001

Honorable Chairman Daniel K. Inouye
and Honorable Vice Chairman Ben Nighthorse Campbell
Senate Committee on Indian Affairs
838 Hart Senate Office Building
Washington, DC 20510-0303
fax (202) 224-5429 (Majority and Minority Offices)

IN RE: **COMMENTS FOR THE SENATE COMMITTEE ON INDIAN AFFAIRS
MADE FOR THE RECORD AFTER THE JULY 25, 2001 HEARING**

Dear Senators Inouye and Campbell:

Thank you for the opportunity to place the Pueblo of Pojoaque's comments on the record after the Senate Committee on Indian Affairs July 25, 2001 hearing. The Pueblo of Pojoaque is a federally recognized Indian Tribe located north of Santa Fe, New Mexico.

The Pueblo of Pojoaque is requesting review of the Department of Interior's "substantial exclusivity" doctrine. The well-intentioned doctrine began as a means to guarantee the Tribes the exclusive rights to conduct gaming within a State. The ill-defined doctrine has now deteriorated into a guise for State extortion of Tribal gaming revenues and to force concessions during compacting.

The doctrine originated with the 1991 Mashantucket Pequot Tribe Compact and the 1994 Mohegan Indian Tribe Compact. The Department of Interior approved payments of gaming revenues from the Pequot and Mohegan Tribes to the State of Connecticut when the State provided substantial exclusivity in gaming to the Tribe(s). In other words, Connecticut completely prohibited non-Indian gaming from competing with Indian gaming, or, if the State allowed non-Indian gaming, all payments would cease as soon as competition took place. The payments were calculated on "Slot Win Contributions," approximately 25% of the gross revenues from the slot machines. The Mohegan "slot win contribution" totaled \$135.1 million, \$121.1 million and \$102.3 million for the

fiscal years ended September 30, 2000, 1999, and 1998 respectively.

THE EFFECT OF THE SUPREME COURT'S SEMINOLE DECISION

In 1996, the U.S. Supreme Court's decision in *Seminole* destroyed IGRA's precarious balance between State and Tribal interests. See *Seminole Tribe of Florida v. State of Florida*, 116 S. Ct. 1114 (1996). *Seminole* acknowledged that Congress, through IGRA, intended Tribes to have the opportunity to ensure fair compact negotiations by authorizing Tribes to sue States for failure to negotiate in good faith. However, since *Seminole* held that Congress had no authority under the Commerce Clause to waive the States' 11th Amendment immunity from lawsuits, the Tribe's opportunity to ensure fair negotiations was stripped.

THE INTERIOR DEPARTMENT'S "SUBSTANTIAL EXCLUSIVITY" DOCTRINE

With the precarious balance of interests upset, the States have latched onto the Department of Interior's "substantial exclusivity" doctrine in order to extort concessions and gaming revenues from the Tribes. In 1997 New Mexico demanded a 16% revenue-sharing payment from the gaming Tribes. The 1997 Compact also included requirements well outside the ambit of negotiations proscribed by IGRA. New Mexico demanded limitations on hours, workers' ages, insurance limits higher than those required of any other New Mexico businesses, and prohibitions on political donations. The New Mexico legislature also ignored IGRA's prohibition that a State would not be able "to impose any tax, fee, charge or other assessment upon an Indian to engage in Class III gaming activities..." New Mexico used the "substantial exclusivity" doctrine as justification for their demands. The gaming Tribes, left by the *Seminole* decision without a means to address the State's bad-faith negotiations, gave in to the State's demands.

The Department of Interior neither approved nor disapproved the 1997 New Mexico Compacts. The Department chose to allow those provisions "consistent with the provisions of IGRA" to go into effect by operation of law. However, Secretary Bruce Babbitt noted in his August 23, 1997 letter to the Pueblo of Pojoaque and the State of New Mexico that:

To date, the Department has approved payments to a State only when the State has agreed to provide substantial exclusivity, i.e. to completely prohibit non-Indian gaming, or when all payments cease while the State permits competition to take place... Otherwise, States effectively would be able to leverage very large payments from the Tribes, in derogation of Congress' intent in 25 U.S.C. § 2710(d)(4) of IGRA not to permit States "to impose any tax, fee, charge, or other assessment upon an Indian tribe... to engage in class III gaming activities..."

In light of the large payments required under the Compact, the Department questions whether the limited exclusivity provided the

Pueblo meets the standards discussed in the previous paragraph. The Compact does not provide substantial exclusivity. Indeed, the Compact seems to expand non-Indian gaming by allowing for a state lottery, the operation of a large number of electronic gaming devices by fraternal, veterans, or other nonprofit membership organizations, gaming by nonprofit tax exempt organizations for fundraising purposes, and the operation of electronic gaming devices at horse tracks every day that live or simulcast horse racing occurs.

...Our concern is highlighted by our understanding that neither the Compact nor the Revenue-Sharing Agreement were the result of a true bi-lateral tribal-state negotiation process. This fact reinforces the Department's view that the payment required pursuant to the Revenue-Sharing Agreement resembles more a fee or assessment imposed by the State on the Pueblo as a condition to engage in class III gaming activities rather than a bargained-for payment for valuable privilege, and thus appears to violate Section 11(d)(4) of IGRA, 25 U.S.C. § 2710(d)(4).

THE STAGE IS SET FOR LEGAL BATTLES IN NEW MEXICO

By not defining the limits of the "substantial exclusivity" doctrine, the Department of the Interior ensured that the doctrine would be challenged in federal court. After the Compacts went into effect in New Mexico, the gaming Tribes made their initial revenue sharing payments under protest. For three years, the gaming Tribes requested renegotiation of those provisions inconsistent with IGRA. In 2000, after the State continued to refuse to renegotiate, the Tribes stopped their revenue sharing payments. In June 2000, the New Mexico Attorney General sued the Tribes to enforce the revenue sharing provision. Currently, the lawsuit is pending in the 10th Circuit on procedural issues.

In 2001, the New Mexico Legislature and 11 gaming Tribes reached an agreement reducing the revenue-sharing rate to 8% of the gaming machine "bet win." Again, the State refused to reduce the revenue-sharing amount no matter how many slot machines were installed at horsetracks, veteran or fraternal organizations – therefore, giving back to the Tribes little exclusivity in return for the revenue sharing payments. Also, before the 2001 Compacts can go into effect, the State has required the Tribes to pay the full 16% backpayments allegedly "owed" to the State.

In order to save the Pueblo's economy, the Pueblo has refused to "share" any revenue with the State. The "sharing" of revenues does not comport with the intent of IGRA.

**THE ILL-DEFINED DOCTRINE DRAINS TRIBAL RESOURCES
AND SPREADS NATIONALLY**

For the Pojoaque of Pojoaque, the effects of the ill-defined “substantial exclusivity” doctrine are devastating. The 16% revenue sharing rate of the “net win” of slot machine revenues translates into the Pueblo of Pojoaque paying the State approximately 38.79% of all its corporate net income. From 1997 through June 30, 2001, the State has demanded \$20,488,014.50 of the tribal gaming income.

Payment of the revenues would be devastating to the Pueblo – social and economic programs would be destroyed. Both the Boys and Girls Club and the Wellness Center would be closed. The Poeh Cultural Center’s educational and vocational programs would be severely cut back. All economic development would be halted. The Pueblo would be forced to mortgage itself to outside investors and future profits would be drained from the Tribe.

While the Pueblo of Pojoaque refuses to share revenues under the ill-defined doctrine, other States have been misled by the idea that they may “share” Tribal gaming revenues. The July 26, 2001 edition of the Tucson Daily Star recently included an article entitled “Track Owners Petition Court About Casinos.” The article states that:

Track owners sued, fearing that [Arizona Governor Jane] Hull, unrestrained, would allow more slot machines in urban areas as well as blackjack tables, neither of which are permitted now.

Their fears are not unfounded: Hull has said both are negotiable – in exchange for the state’s getting a share of the casinos’ profits.

WHAT DOES INTERIOR OWE TO THE TRIBES?

During the July 25, 2001 Senate Committee on Indian Affairs hearing, Chairman Senator Daniel K. Inouye reportedly asked whether the Bureau of Indian Affairs and the National Indian Gaming Commission were watching out for American Indians’ best interests when they reviewed non-Indian investors’ gaming contracts.

“Tribes could be paying much more than they should be,” he said. “Do you have any recommendations so Indian tribes will not be snookered?” he asked

“At what point do we let tribes conduct their own business and at what point are we trustees?” NIGC Chairman Montie R. Deer responded.

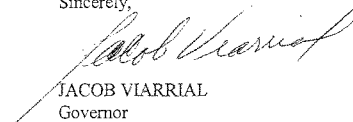
Later, Committee Vice Chairman Senator Ben Nighthorse Campbell stated that, “Even if the negotiations are bad, that’s free enterprise.” He also said, “If you want to say a tribe made a bad mistake, too bad, you have to live with it. That’s what real sovereignty and self-determination is all

about.”

The Pueblo of Pojoaque agrees with the sentiments of Senator Inouye, Chairman Deer and Senator Campbell: The Tribes should be allowed the freedom to compact with the States in good faith and the Department of Interior should ensure that fair negotiations, within the intent of IGRA, are held. Unfortunately, *Seminole* and the ill-defined “substantial exclusivity” doctrine are at odds with the intent of IGRA – to ensure sovereignty and self-determination.

Without Congressional action to allow for compacting when the State acts in bad faith, or without a clear definition by the Department of Interior of the “substantial exclusivity” doctrine, the States will be free to continue to extort concessions and Tribal gaming monies in direct violation of the intent of IGRA.

Sincerely,



JACOB VIARRIAL
Governor
Pueblo of Pojoaque

POJOAQUE PUEBLO GOVERNORS OFF

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PHONE NO. : 5254553363

GOVERNOR
Jacob Viarrial
LIEUTENANT GOVERNOR
George Rivera



SECRETARY
Linda Diaz

TREASURER
Gloria Garcia

PUEBLO OF POJOAQUE

LEGAL DEPARTMENT
ROUTE 11, BOX 21-B
SANTA FE, NEW MEXICO 87501
(505) 455-3901
(505) 455-2272
July 30, 2001

The Honorable Senator John McCain
241 Russell Senate Office Building
Washington, DC 20510-0303
fax (202) 228-2862

Dear Senator McCain:

Thank you for protecting the Tribes. I hope to see you or your staff soon so that I may give you our thanks in person.

Also, thank you for your July 12, 2001 letter offering the Pueblo of Pojoaque an opportunity to share comments with the Senate Committee on Indian Affairs Subcommittee. Our comments are attached to this letter.

Lieutenant Governor George Rivera and I have read the comments that you made at the July 25, 2001 Indian Affairs Committee hearing. We are very glad to have you as our ally. We are also glad that our eloquent friend, National Indian Gaming Association Chairman Ernest Stevens, testified before you. We wholeheartedly agree with him that the 1996 Supreme Court decision in *Seminole* has upset the balance of power in the compacting process. We hope that you will address this lack of fairness. We hope that you will institute some type of Department of Interior procedures to allow the Tribes to conduct Class III gaming when the State does not negotiate in good faith.

THE DEPARTMENT OF INTERIOR'S SUBSTANTIAL EXCLUSIVITY DOCTRINE - ANOTHER DRAIN ON TRIBAL RESOURCES

However, Pojoaque Pueblo also wishes to bring your attention to another problem of unfairness - the "substantial exclusivity" doctrine. As a co-author of the Indian Gaming Regulatory Act, you ensured that the States would not be able "to impose any tax, fee, charge or other assessment upon an Indian to engage in Class III gaming activities..." The States have now found a way to impose taxes upon the Tribes through a well-intentioned, but ill-defined, Department of

Interior doctrine.

In an August 23, 1997 letter to the Pueblo of Pojoaque, Secretary Bruce Babbitt explained the doctrine to us:

To date, the Department has approved payments to a State only when the State has agreed to provide substantial exclusivity, i.e. to completely prohibit non-Indian gaming, or when all payments cease while the State permits competition to take place... Otherwise, States effectively would be able to leverage very large payments from the Tribes, in derogation of Congress' intent [citation omitted] of IGRA not to permit States...

In light of the large payments required under the Compact, the Department questions whether the limited exclusivity provided the Pueblo meets the standards discussed in the previous paragraph. The Compact does not provide substantial exclusivity. Indeed, the Compact seems to expand non-Indian gaming by allowing for a state lottery, the operation of a large number of electronic gaming devices by fraternal, veterans, or other nonprofit membership organizations, gaming by nonprofit tax exempt organizations for fundraising purposes, and the operation of electronic gaming devices at horse tracks every day that live or simulcast horse racing occurs.

THE ILL-DEFINED DOCTRINE LEADS TO EXTORTION IN NEW MEXICO

Although Interior was concerned with the inconsistency between the 16% revenue-sharing rate and lack of exclusivity, the Compact was allowed to go into effect. The "substantial exclusivity" doctrine is draining funds from the New Mexico gaming Tribes. The New Mexico gaming Tribes made their initial revenue sharing payments to the State under protest. When the State refused to negotiate the revenue sharing payments, the Tribes refused to make further payments. Now the State and the Tribes are engaged in litigation in federal court.

For Pojoaque, the effects of the "substantial exclusivity" doctrine are devastating. The 16% revenue sharing rate of the "net win" of slot machine revenues translates into the Pueblo of Pojoaque paying the State approximately 30% of all its annual revenues. The "sharing" of revenues would be devastating to the Pueblo – social and economic programs would be destroyed. Both the Boys and Girls Club and the Wellness Center would be closed. The Poch Cultural Center's educational and vocational programs would be severely cut back. All economic development would be halted. The Pueblo would be forced to mortgage itself to outside investors and future profits would be drained from the Tribe. You, as co-author and strong supporter of IGRA, did everything in your power to fight against this nightmare happening.

We believe that the ill-defined "substantial exclusivity" doctrine adopted by the Secretary of Interior will come under scrutiny in future court actions. A review of the history of the doctrine will lead to the simple conclusion that it has allowed States to continue to extort large payments and

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PHONE NO. : 5054553353

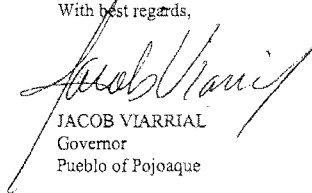
other concessions from Tribes in return for approval of a Tribal-State gaming compact.

"SUBSTANTIAL EXCLUSIVITY" MUST BE DEFINED;
THE DEPARTMENT OF INTERIOR MUST PROTECT ALL OF THE TRIBES

While it may be argued that many gaming Tribes have negotiated a settlement within the boundaries of the Interior "substantial exclusivity" doctrine, Interior owes a national duty to define the limits of the "substantial exclusivity" doctrine. The self-made Interior doctrine has deteriorated into a means by which the States may circumvent the Congressional intent. And there will always be a Tribe willing to settle their disputes to their detriment.

Thank you for your time and for your support.

With best regards,



JACOB VIARRIAL
Governor
Pueblo of Pojoaque

copy: The Honorable Senator Ben Nighthorse Campbell
380 Russell Senate Office Building
Washington, DC 20510
fax (202) 224-1933

The Honorable Senator Daniel Inouye
772 Hart Senate Office Building
Washington, DC 20510-1102
fax (202) 224-6747

The Honorable Senator Peter Domenici
c/o Mr. Joe Trujillo
328 Hart Senate Office Building
Washington, D.C. 20510
fax (202) 228-0900
fax (505) 988-6514



July 27, 2001

The Honorable Daniel K. Inouye
Chairman, Senate Committee on Indian Affairs
722 Hart Building
Washington, D. C. 20510-1102

RE: Comments on Oversight Hearing on Indian Gaming Issues

Dear Senator Inouye:

A representative from our Tribe was unable to attend the oversight hearing on Indian gaming issues, held on July 25, 2001, therefore I am writing to convey our comments on the adequacy of the regulatory structures currently in place under IGRA.

The IGRA was written with the intent to insure regulation within Indian country. As you are aware, the National Indian Gaming Commission, (NIGC), was created by IGRA to assist the tribes in creating and overseeing that proper policies and procedures were put in place to protect the integrity of the games and safety of the patrons and employees. As Indian Gaming grew in size and complexity, so did the NIGC. But instead of overseeing those protective policies, they have interrupted the law to mean that they have the authority to mandate those same policies. Working with and mandating are two different things. We appreciate all the help that we have received from the NIGC. When we were just beginning and needed answers to questions, a phone call was usually all it took.

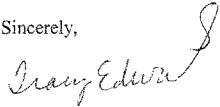
As gaming in Indian Country has grown, so has the budget for NIGC. But it appears that the reasons that NIGC is using to increase its budget is the so called "EXPANSION" in California. After Governor Davis signed those original Compacts with California Tribes, there have been only 8 additional tribes to open gaming facilities. Even with tribes with gaming, 85 of the 108 tribes in California are eligible to receive monies from the trust fund. By the Compact, this means that they have under 350 machines. There may have been approximately 55 to 60 compacts signed, but there are only 47 tribes that are operating gaming facilities. This is only an increase of 8 tribes getting into gaming. Just because a tribe signed a compact does not mean that it was going to open a casino. They just wanted to keep their options open.

As the National Gambling Impact Study revealed, there is not any sign of outside corruption in Indian Country. This is because we take great pride in keeping it out and if the need has presented itself, we have not hesitated calling on the NIGC for help when it was felt necessary. IGRA intended tribes to regulate themselves. Why else would there be a 'SELF-REGULATION CLAUSE IN IGRA'. Instead of the NIGC believing that we need outside help, we believe that we should be given the opportunity to prove ourselves, and I believe we have done that. NIGC should be present and checking our policies. We can make mistakes. But that doesn't mean we can't fix those mistakes.

Until those are educated who want to change IGRA or make rules for Indian Country and don't know the effects those changes would make on a government, the IGRA should not be opened for change. Many people do not understand Indian Tribes as governments. They just see us as getting special treatment. I hope this will change in the future.

If we can help you in any way, please feel free go call me.

Sincerely,

A handwritten signature in cursive script that reads "Tracy Edwards". The signature is written in dark ink and is positioned above the printed name.

Tracy Edwards
Chairwoman, Redding Rancheria

Forest County Potawatomi Community
P.O. Box 340
Crandon, Wisconsin 54520

Law Offices
Tribal Attorney



August 7, 2001

Via Facsimile (202) 228.2589
Original by Regular Mail

Daniel K. Inouye
Chairman, Senate Committee on Indian Affairs
838 Hart Senate Office Building
Washington, D.C. 20510-6450

Re: **Senate Committee on Indian Affairs Oversight Hearing on IGRA**

Dear Chairman Inouye:

The Forest County Potawatomi Community of Wisconsin appreciates the opportunity to submit these comments following the Oversight Hearing conducted by the United States Senate Committee on Indian Affairs on the implementation of the Indian Gaming Regulatory Act held on July 25, 2001. We support strong and effective regulation and federal oversight of Indian gaming to ensure the continued integrity and viability of this most important resource for Indian people. The Forest County Potawatomi have concluded, based on our extensive hands-on experience, that the review and oversight of Indian gaming, especially with respect to non-Indian promoters, should be strengthened in several significant respects that do not necessarily require an increase in the federal budget.

The Indian lands of the Forest County Potawatomi include a reservation in Northern Wisconsin and the lands occupied by the Potawatomi Bingo & Casino and the

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Chairman Daniel K. Inouye
August 7, 2001
Page 2

Indian Community School of Milwaukee within the City and County of Milwaukee. We are descendants of those proud people who refused to leave the southern shores of Lake Michigan when the United States forcibly removed most of the Potawatomi people to the West, following the Treaty of Chicago in 1833. The Forest County Potawatomi have had substantial experience in Indian gaming. We were able to regain two parcels of lands within our former aboriginal territory in trust to support the Indian Community School of Wisconsin and to operate a successful Indian gaming facility. We have survived a difficult removal of a non-Indian manager from our casino. In cooperation with the National Indian Gaming Commission, the Forest County Potawatomi have also had a non-Indian management contract rejected by the National Indian Gaming Commission because the financial return to the non-Indian was not justified, in the opinion of the NIGC. Finally, and most recently, the Forest County Potawatomi have attempted to consult with the BIA on an application by another tribe to construct the largest Indian casino in the Great Lakes area on Potawatomi's former aboriginal lands. If that casino is approved, it would cause very substantial economic harm to the Potawatomi.

The Forest County Potawatomi make these following suggestions to the Chairman and the members of the Committee based upon its extensive experience with both the good and with the challenges within Indian gaming:

1. The current procedures for the review and evaluation of new Indian gaming projects with substantial non-Indian financial and management involvement should be strengthened in the following respects:

Chairman Daniel K. Inouye
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Page 3

The Secretary should establish objective standards and a fair and open procedure for the Secretary to evaluate whether to acquire land in trust for an Indian gaming operation under 25 U.S.C. § 2719. Much of the continuing controversy over proposals to expand Indian gaming establishments on new lands, including those by newly-recognized tribes, is the result of a void of standards and procedures to guide the Secretary. Cities and counties confronting new gaming establishment and surrounding tribes that may be devastated economically by a new casino are left guessing what evidence will be persuasive with the Bureau of Indian Affairs in evaluating a new casino proposal. The lack of standards and a fair and open process forces affected parties to try the political process as the only means of achieving their legitimate ends. The parties involved in these disputes do not turn to politics as the preferred mechanism for obtaining a fair result, but out of the frustration caused by the Bureau of Indian Affairs' failure to establish fair standards and an open process.

The Secretary and NIGC should establish specific and comprehensive standards for evaluating the economic return that must be achieved by the Indian tribe in a new off-reservation casino or a new casino financed or managed by non-Indians. Tribes desperate for economic development are in a terrible bargaining position *vis-a-vis* non-Indian developers and financiers. Tribes can be victimized by landowners wishing to sell land to tribes at highly-inflated prices and political deal makers who trade inside political position for fabulous consulting fees. The NIGC and BIA often are forced to turn their heads when they see terrible deals because an applicant Indian tribe, which ended up in a very bad business deal as a result of having no bargaining position, supports an

Chairman Daniel K. Inouye
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Page 4

application.

Finally, while the BIA and the NIGC are concerned about the economic interests of an applicant tribe, even one that is being badly abused financially, they seem to ignore the economic harm to other tribes from a so-called Indian casino project, even if the new project would funnel most of the new revenue to non-Indians. The development of new non-Indian managed and financed projects under the Indian Gaming Regulatory Act, if unchecked, could result in a major transfer of wealth from Indian tribal governments to non-Indian developers, states and local governments.

2. The NIGC and the BIA should adopt a rule which prohibits any Indian gaming applicant from submitting any untrue or misleading statements.

Current federal criminal law, 18 U.S.C. § 1001, subjects a person to criminal prosecution for making a false statement to a federal agency. Unfortunately, criminal prosecutions for such false statements are rarely brought and have not deterred applicants from submitting grossly misleading information to the Secretary and to the NIGC. Applicants for favorable action for Indian gaming matters are rarely subject to effective examination. The agencies may privately question whether the applicants are giving them the "full story," as in the *Mohegan* case, the current federal regulatory environment imposes no real penalty for applicants submitting grossly one-sided applications. The NIGC and BIA should immediately adopt regulations similar to the rules governing financial disclosure regulated by the Securities and Exchange Commission, such as under

Chairman Daniel K. Inouye
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Page 5

its Rule 408 and 10(b)-20. Applicants to the NIGC must know that there will be severe consequences if they submit misleading information that results from a material omission. The NIGC and BIA should require full disclosure both by regulation and in the application documents themselves. We understand that the current application format used by the NIGC does not even require a sworn affirmation by a proposed management contractor that the information contained in the application is true and complete. A much higher standard of frankness and full disclosure must be imposed on the BIA and the NIGC will never get a full explanation of the transactions they are asked to review.

3. The Secretary of the Interior should only be allowed to reacquire a tribe's former historic lands for gaming operations under the Indian Reorganization Act.

The Indian Reorganization Act of 1934 has played a historic role supporting tribes in reacquiring their lost land and thereby providing an opportunity for economic self-sufficiency.

Section 5 of the Indian Reorganization Act has served a valuable purpose by allowing tribes to reacquire former tribal land, but it should not be stretched into a solution for every land problem for every tribe. If the Secretary tries to interpret Section 5 too broadly, to acquire lands at a great distance from an Indian tribe's historic land, the Secretary runs the risk of a court concluding that Section 5 is an unconstitutional delegation from Congress. The Secretary should be mindful of this risk when she finally adopts standards for implementing Section 5 in the current rule-making process to adopt a

Chairman Daniel K. Inouye
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Page 6

new Part 151 of Title 25 of the Code of Federal Regulations.

Thank you for the opportunity to submit these comments. We appreciate the Committee's continued interest in protecting the integrity and success of Indian gaming as a valuable resource for Indian people.

FOREST COUNTY POTAWATOMI COMMUNITY

A handwritten signature in dark ink, appearing to read "Harold G. Frank". The signature is fluid and cursive, with the first name "Harold" and the last name "Frank" being more legible than the middle initial "G".

Harold "Gus" Frank
Chairman

cc: Jeffrey A. Crawford, Attorney General, Forest County Potawatomi Community